



IPRT
Irish Penal Reform Trust

IPRT Position Paper 6

Planning the Future of Irish Prisons

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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 the progressive reform of the penal system based on evidence-led policies. IPRT works to achieve its goals through research, raising awareness, building alliances and growing our organisation.

Through its work, IPRT seeks to stimulate public debate on issues relating to the use of imprisonment, including on sentencing law and practice in Ireland. This is one in a series of Position Papers, which underpin the work of the IPRT.

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Introduction

In Ireland, policy in relation to imprisonment has traditionally been separated from the wider questions of criminal justice policy. IPRT believes that any attempt to plan for the future of Ireland's prison system must be informed by an understanding of how political decisions impact on that system, and by a clear vision of the proper role of imprisonment in the context of all of the penalties available within the criminal justice system.

This Position Paper sets out the main issues relating to planning for the future of the prison system including the size of the prison population. IPRT believes that such planning should be carried out with reference to the principle of imprisonment as a measure of last resort,¹ and must be informed by an understanding of how various policy decisions impact on prisoner numbers.

In examining these interlinked issues, IPRT has looked at the experience of penal policy development in a number of other jurisdictions, including England and Wales, Scotland, Finland and the States of Washington and Minnesota in the US. This Position Paper also builds on an analysis of the specific proposals to build the largest prison in the history of the State at Thornton Hall (see *IPRT Position Paper on Thornton Hall*). IPRT believes that the critical question in analysing the current and future level of our prison population is not simply dependent on the aggregate total of prisoners but requires a more searching examination of whether we need to imprison all those who we currently detain.

¹ See: *IPRT Position Paper on Prison as a Last Resort and Penal Moderation* (available at: www.iprt.ie).

1. The Irish Context: a Penal System at a Crossroads

1.1 Overall size of prison population

In comparative terms Ireland continues to have a relatively low prison population of approximately 3,900 prisoners.² This represents a rate of imprisonment of approximately 85 per 100,000 of the population, which is close to the European average; this rate is approximately half of the rate in England and Wales. However, this does not tell the full story of Irish imprisonment. Ireland has a very high rate of committal, i.e. numbers of people sent to prison, explained by a high use of short sentences of 3 months or less and large numbers of prisoners remanded following a denial of bail. 13,557 committals to prison were ordered in 2008.³ Of the 7,461 sentenced to imprisonment by the courts, 43% of sentences were for three months or less. IPRT believes that such offenders could be safely and efficiently removed from custody, thus reducing pressure on the prisons in terms of space and resources.

Ireland's ranking in international terms should also not give rise to complacency. From a low base, the Irish prison population has increased significantly over the past decade. Since the mid-1990s the building of new prisons at Cloverhill, the Midlands, Dóchas, Wheatfield, and Castlerea (notwithstanding the closing of others) has led to an increase in the overall number of prisoners in the system from 2,180 in 1990 to well over 3,800 today. **IPRT calls on the Government to commit to working towards significant reduction of the existing and future levels of imprisonment. In this context the Government should implement medium- to long-term targets for the reduction of prison population along the lines of the targets previously suggested in the 1994 strategy on Management of Offenders.**⁴

1.2 Human rights and overcrowding in Irish prisons

Human rights law imposes legal obligations on Ireland in relation to the standards of our prisons and basic minimum standards of care for all prisoners. In line with the principle of safe custody, meeting these standards must be taken as a base-line for any planning of our future prison needs. Detailed discussion of these standards is included in the *IPRT Position Paper on Human Rights in Prison*, however, it is worth mentioning here that, in accordance with human rights standards, the planning for the future of Irish prisons has to consider how the needs of prisoners will be appropriately met in areas such as: humane physical conditions; appropriate healthcare (including mental health provision); education; contact with the outside world.

The very serious problem of overcrowding within the existing system continues to be a major feature of Irish prisons. The recent *Annual Report* of the Inspector of Prisons conclusively shows that most of the institutions are chronically overcrowded.⁵ The CPT has identified overcrowding as a significant problem within the Irish system, and as an exacerbating factor for other systemic problems such as poor cell conditions, poor regimes and inter-prisoner tension and violence.⁶

² World Prison Brief, Prison Brief for Republic of Ireland at: http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_country.php?country=145

³ Irish Prison Service (2009) *Annual Report 2008* [available at: <http://www.irishprisons.ie/documents/IPSanualreport2008e.pdf>].

⁴ Department of Justice (1994) *Management of Offenders – a Five Year Plan*. Dublin: Stationary Office. See also: Kilcommins, S. et.al (2004) *Crime, Punishment and the Search for Order in Ireland*, Dublin: Institute for Public Administration, p. 238.

⁵ The Office of the Inspector of Prisons (2009) *Annual Report 2008* [available at: <http://www.inspectorofprisons.gov.ie/en/IOP/Pages/PR09000032>].

⁶ *Report to the Irish Government on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or*

IPRT is committed to the improvement of conditions in Irish prisons and the elimination of overcrowding. IPRT believes it is time to separate the positive plans to replace the older and ill-suited prison stock with modern facilities, from the ill-judged and retrograde proposals to expand the size of the prison estate. IPRT considers that the necessary improvement of conditions should not provide an opportunity to increase prison capacity. IPRT strongly believes that prison-building alone cannot solve the problem of overcrowding. The extensive prison-building programme in Ireland in recent years and the failure of this expansion to address overcrowding proves this assertion.

1.3 Current prison building programme

Against the backdrop of a steadily rising prison population and a persistent problem of overcrowding the Government has moved in recent years to bring forward an extensive prison building programme with the building of large new prisons at Thornton Hall in Dublin and Kilworth in Cork.⁷ IPRT opposed plans for these two large prisons on the basis that they would herald a major increase in our overall prison population (see above, and also *IPRT Position Paper on Thornton Hall.*)

The Irish Prison Service has recently tendered for new prison population projections to assist it in planning the medium-term proposals and the Minister for Justice, Equality and Law Reform has also initiated a consultation process towards a White Paper on Crime. All of these key developments make the rethinking of the future of the Irish prison system particularly timely.

2. The Importance of Accurate Data and Population Projections

In order to plan for and manage the operation of a prison system, accurate data is needed about the current demand for prison places and identification of patterns of imprisonment for the future.

O'Donnell highlights the fact that in the past vast prison-building programmes were initiated in a situation when little data on prison populations was publicly available, and certainly not published.⁸ Given the public importance of prison policy, IPRT believes that prison population projections need to be transparent and subject to public interrogation. In this regard IPRT notes that in other jurisdictions complex models for projecting prison population trends are employed and are also made accessible to members of the public.⁹ **IPRT recommends that complex modelling for projecting prison population trends be conducted in Ireland and the methods and results be published.**

Degrading Treatment or Punishment (CPT) from 2 to 13 October 2006 (available at: <http://www.cpt.coe.int/documents/irl/2007-40-inf-eng.pdf>).

7 On 19th May 2009, *The Irish Times* reported that the talks between the Government and the Léargas Consortium that was to build the new prison at Thornton Hall broke down over the proposed costs of the project (<http://www.irishtimes.com/newspaper/breaking/2009/0519/breaking55.html>). On 23rd June 2009, after much speculation as to the future of Thornton Hall, the Minister for Justice, Equality and Law Reform announced that work on Thornton Hall will proceed on a phase-to-phase basis, starting in late 2009 or early 2010 (See press release: <http://www.justice.ie/en/JELR/Pages/Government%20Go-Ahead%20for%20revised%20Thornton%20Hall%20Prison>). There are no further details available at this time as to the proposed timeframe of the project, although it has been suggested in the press that the new prison will not be operational before 2015, five years after its original timeframe (<http://www.tribune.ie/news/home-news/article/2009/jun/21/funding-crisis-puts-thornton-hall-plan-back-three-/>).

8 O'Donnell, I. (2008) 'Stagnation and Change in Irish Penal Policy' in (2008) *The Howard Journal of Criminal Justice*, Vol.47, Number 2, May 2008, at page 121. O'Donnell gives an example of years 1995-2000 when no prison statistics were available, the overall crime rates were falling, and yet the State embarked on the biggest prison expansion programme in the history of the Irish State (O'Donnell, op.cit. at note 6).

9 See for example: Minnesota Department of Corrections (2008) *Minnesota Prison Population Projections: Fiscal Year 2008 Report* (available at: http://www.doc.state.mn.us/publications/documents/ProjectionsReport-FY08_Final.pdf).

The public needs to know what projections have been used to justify the current building programme and we need to interrogate these projections. Once the examination of the data available is made possible, then accurate planning can begin - not only considering the number of prisoners Ireland is likely to have in the future, but also considering the needs of the future prison population.

It is critical to any debate on the future of Irish prisons that a comprehensive and detailed picture of our current prison population is publicly available. A geographical breakdown of offenders and prisoners should be used to identify the areas of the country where prisons might most usefully be located, in line with the principle of more and smaller prisons rather than larger institutions (so called 'localism').¹⁰ An analysis of the types of offences for which people are being imprisoned, the age of prisoners and the proportion of prisoners on remand might also direct the security categorisation of prisons. A profile of the mental and physical health of detainees and their educational needs is also a basic requirement for proper planning of regimes and services within the system.

3. Understanding the Factors that Cause Penal Expansion

There is a large body of evidence to demonstrate that, contrary to popular wisdom, crime rates are generally not determinative of rates of imprisonment.¹¹ Essentially the size of a prison population in a given society, and trends in that population's growth or decline, are determined by a complex series of factors, several of which are linked to political decisions. In an Irish context, O'Donnell has demonstrated how imprisonment rates increased dramatically in Ireland during a period in the 1990s despite that fact that crime rates were falling.¹² Accurate penal planning, including making informed decisions about prison building, must be sensitive to the impact of changes in criminal justice legislation and in sentencing practices on prisoner numbers. As a corollary, at the political level, debates and political decision-making around legislation and matters such as parole practice need be informed by an understanding of the consequences of those decisions in terms of prison overcrowding, the cost to the exchequer of imprisonment, and the other secondary effects of imprisonment.

3.1 Crime rates and crime patterns

Notwithstanding the contingent nature of prison population trends described above, changes in patterns of certain categories of offending and detection may be one significant factor influencing committal rates. In Minnesota, for example, the use of sentencing models has identified prison population increases over a certain period as being caused largely by increased detection of, and increased sentences for, methamphetamine offences and sexual offences.¹³

To understand the impact of any changes in patterns of offending, for example an increase in gun or drug crime, accurate crime statistics are required. Data of this type is a critical building block for any system of evidence-led penal policy planning. In the first instance, data that traces changes in patterns of offending over periods of time and the impact of those patterns on imprisonment rates is needed in order to make accurate predictions of future prison needs and the associated social

¹⁰ Commission on the English Prison Today Paper on Localism: http://www.prisoncommission.org.uk/fileadmin/howard_league/user/pdf/Commission/Commission_Localism_Paper.pdf

¹¹ Coyle, A. (2005) *Understanding Prisons: Key Issues in Policy and Practice*, Berkshire: Open University Press, at p. 2 and p.20.

¹² O'Donnell et al. (2004) at p.238.

¹³ Minnesota Department of Corrections (2006) *Minnesota Prison Population Projections: Fiscal Year 2008 Report* (available at: <http://www.corr.state.mn.us/documents/ProjectionsReport-FY06.pdf>).

and economic costs. Further benefits of compiling comprehensive data of this type are that it can highlight whether increases in imprisonment of certain categories of offenders are producing positive effects in terms of a commensurate decline in offending. More generally, crime prevention resources can be focussed on particular categories of offenders and offending behaviours in order to prevent their occurrence and to reduce the need for imprisonment. **IPRT calls on the Department of Justice, Equality and Law Reform, the Office of National Statistics and the Irish Prison Service to conduct analysis of crime statistics on an annual basis and to make the results publicly available.**

3.2 Legislative change

Recent experience in England and Wales suggests that major legislative change can also play a significant role in growing prison populations, particularly in increasing committals; new offences can be created, or the legal basis for detention expanded, with profound impacts on committal rates. The Commission on English Prisons Today noted in their recent report that in England and Wales penal policy and particular practices of the criminal justice agencies have been primarily responsible for driving up prison numbers.¹⁴

In recent years in Ireland we have seen the creation of a number of new offences and, more significantly, the expansion of the use of detention with regard to remand and immigration law. At the same time, quite major changes have taken place in relation to criminal procedures and due process rights, particularly through the Criminal Justice Acts 2006 and 2007. All of those changes have been introduced without prior analysis of the impact of legislation on the size of the prison population. **IPRT calls on the Oireachtas to conduct regular assessments of the impact that changes to criminal law and procedure have on the number of people in prisons, and make such assessments part of the process of introduction of new Bills**

On the positive side, legislation can also be introduced to reduce or exclude the basis for detention for certain categories of persons as exemplified by the recent publication of the Fines Bill 2009. Legislation can also be introduced to influence the sentencing practice, particularly in relation to short sentences. The experience of the most recent Scottish legislation is very encouraging in this regard. The new Criminal Law and Licensing (Scotland) Bill seeks to discourage the use of short-term sentences in cases where other sentencing options are available.¹⁵ While the new provisions do not prevent the courts from imposing short sentences, they will require judges to consider all other available methods of dealing with the offender, and – when imposition of short sentence is considered the best approach – will also require the judges to state their reasons for such a decision.¹⁶ **IPRT calls on the Government to consider the introduction of similar legislation regarding the use of short-term sentencing in Ireland.**

3.3 Sentencing, parole and remission

There is now incontrovertible evidence that, in addition to changes in committal rates, the key factors in increasing prison populations are changes in average sentence length and changes to remission and parole rates. In jurisdictions such as the United States, sentencing legislation has had a dramatic impact on prison populations, particularly through the prevalence of mandatory minimum sentences

¹⁴ The Commission on English Prisons Today (2009) *Do Better Do Less: The Report of the Commission on English Prisons Today*, London: The Howard League of Prison Reform, at p. 22 (available at: <http://www.howardleague.org/index.php?id=835>).

¹⁵ Scottish Parliament Information Centre (2009) *Criminal Justice and Licensing (Scotland) Bill: Short Custodial Sentences* (available at: <http://www.scottish.parliament.uk/business/research/briefings-09/SB09-31.pdf>).

¹⁶ Ibid.

in legislation.¹⁷ In England and Wales, there is also evidence that higher tariffs are being imposed for particular crimes, and that changes in parole practice are significantly extending the length of indeterminate sentences.¹⁸

IPRT believes that the most important question in understanding our prison population trends now and into the future is to identify what changes are occurring in sentencing law and practice. It also appears that parole practices are changing, leading to longer terms of imprisonment for indeterminate sentences and for serious crime. Although there are some signs of the number of cases going up, as evidenced by statistics for 2008, the annual reports of the Parole Board for recent years show declining numbers of prisoners coming before it to be considered for release: 7 prisoners serving 8 years came before the Board in 2007; 15 in 2006; 20 in 2005. 8 prisoners serving 8-10 years came before the Board in 2007; 12 in 2006; 14 in 2005.¹⁹ There have also been indications that Ministers for Justice, who make the final decision on release, require prisoners to serve increasingly longer sentences before being considered for parole.

In relation to all of these issues, the key question is the collation and analysis of detailed data on the practices of the courts and other actors within the criminal justice system.

As a first step there is the need to measure whether higher tariffs are being imposed by courts in relation to certain crimes. This requires a comprehensive database of sentences imposed by the courts. Given the significant role that mandatory minimum and presumptive sentencing have played in prison population increases in other jurisdictions, there is a need to focus on how existing legislative provisions for these sentences are being applied by the courts, and the extent to which they are having an impact on the prison population and the extent to which they may impact into the future (see *IPRT Position Paper on Mandatory Sentencing*).

3.4 Prison building

As was recognised in the Whitaker review of the Irish penal system over 20 years ago, the building of prisons and increases in prison capacity can act as a self-fulfilling prophecy, leading to an increase in overall prison populations. Limited prison capacity may act as a restraining factor on the courts. On the other hand, where prison capacity increases, the expansion is invariably accompanied by political statements of the intention to increase prisoner numbers. As set out below, political rhetoric of this type inevitably has the effect on sentencing authorities of creating an impetus to imprison.

Also relevant here is the current phenomenon of near-permanent prison overcrowding, caused by the chaotic increase in the number of prisoners held within institutions. No safe limits have been set beyond which prisoners cannot be admitted to prison. An introduction of such limits, informed by basic human rights standards, would act as a critical safety check within the system and also force authorities to accept responsibility for increases in prisoner numbers and to create solutions which do

¹⁷ See also: Jones, T., Newburn, T. 'Three Strikes and You're Out: Exploring symbol and substance in American and British Crime Control Politics' in *The British Journal of Criminology* 46:781-802 (2006).

¹⁸ Ashworth, A. 'Sentencing' in Maguire, M., Morgan, M. and Reiner, R. (eds.) (2007) *Oxford Handbook of Criminology*, Oxford: Oxford University Press, pp.990-1023; Newburn, T. 'Tough on Crime: Penal policy in England and Wales' in Tonry, M. (2007) *Crime, Punishment and Politics in Comparative Perspective*, Chicago: Chicago University Press, pp. 425 – 470. See also: The Commission on English Prisons Today (2009) *Do Better Do Less: The Report of the Commission on English Prisons Today*, London: The Howard League of Prison Reform (available at: <http://www.howardleague.org/index.php?id=835>).

¹⁹ For Annual Reports of the Parole Board (2002 to 2007), see: http://www.justice.ie/en/JELR/Pages/Parole_Board.

not involve custodial detention. **IPRT calls on the Government to implement safe custody limits in the Irish prison system in line with international human rights standards.**

3.5 Political discourse and public debate

We have seen in other jurisdictions, too, that the relationship between political decision making and judicial action can be subtle in this area. The view has been expressed that, notwithstanding constitutional entrenchment of the separation of powers in Britain, political rhetoric on law and order has impacted on the sentencing practices of the British courts in recent years.²⁰ The Commission on English Prisons Today recently highlighted the fact that intense and punitive political activity encourages a more fearful and insecure population, more inclined therefore to accept penal expansionism as a policy.²¹ This confirms a finding by Beckett (1997) that public opinion and media coverage of crime issues actually follow from the political discourse rather than the other way round.²² Expectations about the role of prison and what it can do for society has been raised to unrealistic levels. Public debate on imprisonment is all too often driven by responses to the most violent crimes, events that are highly publicised and where 'public expectation' is that the Government will be 'tough on crime'. When the debate is taking place in such highly-charged circumstances, it very rarely leads to introduction of criminal justice measures that are effective.

4. How to Plan for the Future

4.1 Size of prison population – a question of policy

IPRT believes that the long-term direction of prison policy must be predicated on a fundamental policy choice about the number of prisoners Ireland *wants* to have, in line with the principle of the use of imprisonment as a measure of last resort. To reiterate, as a starting point we need to know what projections have been used to justify the current building programme. IPRT believes that increasing the prison population is a fundamentally important decision with implications for individuals, society and public spending. As such, these projections should be transparent and flexible, and be informed by the principle of penal moderation.

There is a large body of evidence which demonstrates that prison numbers are not a simple calculation of crime rates and population. Again, the size of a prison population in a given society is essentially a question of policy that is determined by a complex series of factors, but is predicated in the first instance on a political choice as to what the optimum prison population should be. IPRT believes the fundamental guiding principle in making this choice should be that imprisonment should be used sparingly and the numbers in prison should be reduced. From this, policy decisions can be shaped in relation to the various factors that determine the prison population size.

The example of Finland, which set itself the long-term policy objective of having fewer prisoners, is most inspiring in this regard.²³ Successive Finnish governments have taken positive and deliberate

20 Newburn, T. 'Tough on Crime: Penal policy in England and Wales' in Tonry, M. (2007) *Crime, Punishment and Politics in Comparative Perspective*, Chicago: Chicago University Press, pp. 425 – 470.

21 The Commission on English Prisons Today (2009) *Do Better Do Less: The Report of the Commission on English Prisons Today*, London: The Howard League of Prison Reform, at p. 22 (available at: <http://www.howardleague.org/index.php?id=835>).

22 Beckett, T. (1997) *Making Crime Policy*, New York: Oxford University Press.

23 Lappi-Seppälä, T. (2007) 'Penal policy in Scandinavia' in Tonry, M. (ed.) *Crime, Punishment and Politics in Comparative Perspective*, Chicago: University of Chicago Press (2007), pp.217-295.

steps to reduce that country's prison population. This commitment was shared across the political spectrum and was based on a realisation that imprisonment was costly and counter-productive. More recently, the Scottish Prisons Commission recommended the reduction of the overall prisoner numbers from 8,000 to 5,000 in Scotland.²⁴ Any programme of reform in the area of prison policy needs to be underpinned by a clear political commitment to reduce imprisonment. Ideally this should be shared through political agreement. **IPRT calls on all political parties to commit to a reduction in the use of imprisonment and to the creation of evidence-based debate and policy in this area.**

4.2 Population projections

IPRT is committed to supporting evidence-led policies within the penal system. In this regard, we believe that, as well as being founded on sound principles and clear policy decisions, any planning for the prison system should be based on an assessment of accurate data about the current demand for prison places and identification of patterns of imprisonment for the future.

- The Government should commission an independent review of legislative and policy changes in the last decade and an assessment of their impact on the number of people imprisoned in Ireland. In particular, the review should look at: changes to the law in terms of the creation of new offences; changes to sentences and sentencing guidelines; changes to sentencing practice, etc.
- This review should be used to guide future legislative and policy decisions which affect imprisonment. These decisions should be informed by the principles of the use of imprisonment as a last resort and respect for human rights of everyone in the prison system.
- Within the stated policy parameters of the desired projected prison numbers, the precise design and planning of institutions should incorporate data on population trends, including age and gender, in the prisons and in the general population.
- A geographical breakdown of offenders and prisoners should be used to identify the areas of the country where prisons might most usefully be located, incorporating the principle of more smaller prisons rather than larger institutions (so called 'localism').
- A detailed picture of the current prison population – types of offenders, length of sentences being served – should also inform the general security classification needs of our prisons (e.g. at present Ireland does not have an open prison for women, despite the low security risk among women prisoners generally).

²⁴ Scottish Prisons Commission (2008) *Scotland's Choice: The Report of the Scottish Prisons Commission* [available at: <http://www.scotland.gov.uk/Resource/Doc/230180/0062359.pdf>].

5. Summary and Recommendations

- Overcrowding continues to be a very serious problem within the existing prison system in Ireland; this exacerbates other difficulties in the prisons such as poor cell conditions, poor regimes and inter-prisoner violence and tensions. IPRT believes it is time to separate the positive plans to replace the older and ill-suited prison stock with modern facilities from the ill-judged and retrograde proposals to expand the size of the prison estate. Rather than expanding the prison stock, IPRT believes that the most effective way to reduce overcrowding is to reduce the number of prisoners in the system. **IPRT therefore recommends that the following steps are taken immediately or in the short-term:**
 - **IPRT calls on the Government to commit to working towards significant reduction of the existing and future levels of imprisonment.** In this context the Government should implement medium- to long-term targets for the reduction of the prison population along the lines of the targets previously recommended in the 1994 strategy on *Management of Offenders*.
 - **The Government should commit to reducing the number of prisoners in the short-term, particularly by: removing certain categories of prisoners from the system** (for instance, remand prisoners, immigration detainees, fine defaulters, etc.); appropriately resourcing community-based sanctions; introducing measures to effectively reduce recidivism and support long-term re-integration of prisoners to life in the community
 - Given the public importance of prison policy, IPRT believes that prison population projections need to be transparent and subject to public interrogation. In this regard IPRT notes that in other jurisdictions complex models for projecting prison population trends are employed and are also made accessible to members of the public.²⁵ **IPRT recommends that complex modelling for projecting prison population trends be conducted in Ireland and the methods and results be published.**
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- Any planning for the future of the prison system in Ireland must begin with a comprehensive analysis of the current profile and needs of the existing prison population. In particular, an analysis of the age, geographical origin, nationality, offending history, health and educational needs of prisoners is a basic requirement for the design and planning of institutions, regimes and services. Such analysis should be firmly based on the premise that planning for the future of Irish prisons is planning for their use as a measure of last resort.
- Using comprehensive crime statistics, the impact of changing patterns of offending on imprisonment rates and the effectiveness of imprisonment in reducing particular categories of offending should be measured and analysed. **IPRT calls on the Department of Justice, Equality and Law Reform, the Office of National Statistics and the Irish Prison Service to conduct such analysis of changing patterns of offending on an annual basis and make the results publicly available.**
- In recent years in Ireland we have seen the creation of a number of new offences and, more significantly, the expansion of the use of detention with regard to remand and immigration law. At the same time, quite major changes have taken place in relation to criminal

²⁵ See for example: Minnesota Department of Corrections (2008) *Minnesota Prison Population Projections: Fiscal Year 2008 Report* (available at: http://www.doc.state.mn.us/publications/documents/ProjectionsReport-FY08_Final.pdf).

procedures and due process rights, particularly through the Criminal Justice Acts 2006 and 2007. All of those changes have been introduced without prior analysis of the impact of legislation on the size of the prison population. **IPRT calls on the Oireachtas to conduct regular assessments of the impact that changes to criminal law and procedure have on the number of people in prisons, and make such assessments part of the process of introduction of new Bills.**

- Changes in sentencing law and practice are the single most significant factor in determining prison population growth. As a base-line for any analysis of prison population trends in Ireland, accurate and comprehensive data on sentencing is required.
- In particular there is strong evidence that the introduction of mandatory and presumptive sentencing can lead to major increases in the imprisonment in certain categories of offenders. On the other hand, introduction of new legislation can be used to bring about positive reductionist impact on the size of the prison population. In this respect, IPRT commends the introduction of the Fines Bill 2009 as a measure to limit the use of detention for fine default. Other measures, such as legislation seeking to limit the use of short-term sentences should also be considered and in this context **IPRT calls on the Government to consider the introduction of legislation similar to the Criminal Justice and Licensing (Scotland) Bill in Ireland.**
- Currently, there are no safe limits determined beyond which prisoners cannot be admitted to prison in Ireland. The introduction of such limits, informed by basic human rights standards, would act as a critical safety check within the system by preventing overcrowding and would also force authorities to accept responsibility for an increase in prisoner numbers. **IPRT calls on the Government to implement safe custody limits in the Irish prison system in line with international human rights standards.**
- A programme of reform in the area of prison policy needs to be underpinned by a clear political commitment to reduce imprisonment. Ideally this should be shared through political agreement. **IPRT calls on all political parties to commit to a reduction in the use of imprisonment and to the creation of evidence-based debate and policy in this area.**

