

## **Position Paper on Prison Building Policy - Thornton Hall**

**2 June 2008**

The Irish Penal Reform Trust (IPRT) is a non-governmental organisation, which is committed to reducing imprisonment, respecting the rights of everyone in the penal system and progressive reform of the penal system based on evidence-led policies. IPRT works to achieve these goals through research, raising awareness, building alliances and growing our organisation. This is one of a series of Position Papers, which underpin the work of the IPRT.

### **Introduction**

The proposed plan to close the four existing prison units at the Mountjoy site and replace them with a new prison complex at Thornton Hall is the most significant development in the Irish prison system for a generation.<sup>1</sup> Based on the limited information available to date, the plans appear to have many potential benefits and in particular, IPRT strongly welcomes the replacement of ill-suited accommodation at the Mountjoy site. However, we are concerned about several specific aspects of the current plans, which may have long-term detrimental effects on Irish penal policy, and may impact negatively on particular groups of prisoners and other vulnerable groups.

This Position Paper sets out our concerns about the present proposals and makes recommendations as to how the present project, if it goes ahead, can better reflect human rights standards, international best practice and the principles of progressive penal reform. These concerns relate to:

1. Public Consultation;
2. Capacity of the New Prison;
3. Overcrowding and Cell Design;
4. Size and location of the New Prison;
5. Public Private Partnership and Privatisation;
6. Detention of Children;
7. Women's Prison;
8. Immigration Detention;
9. Co-location of Prison with Central Mental Hospital, and
10. Accountability within the Prison System.

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<sup>1</sup> At present, the Mountjoy site comprises of the main Mountjoy men's prison, the Training Unit, the Dóchas Centre Women's Prison and St Patrick's Institution.

## **1. Public Consultation**

The plans for Thornton Hall have the potential to shape penal policy for decades to come. Despite the importance of the project, no public consultation has taken place in the period since the site at Thornton Hall was purchased in January 2005.

### **Recommendation:**

We urge the Minister for Justice, Equality and Law Reform to facilitate public consultation about all aspects of the planning and design of the new prison(s) as a matter of urgency. IPRT is committed to engaging constructively with such a process.

## **2. Capacity of the New Prison**

At present the four prisons at the Mountjoy site have an official capacity of approximately 963<sup>2</sup> – although official “operational capacity” figures mask overcrowding that results from shared cells. From the information that has been made public, it appears that Thornton Hall will have capacity for 1,400 prisoners initially, while reference has been made to a potential capacity of 2,200 if cells “double-up” in the future. Such an increase in the prison population could have long-term repercussions for wider criminal justice policy in Ireland, yet no demographic or criminological evidence has been evidenced to show why this significant expansion of prison capacity is needed.<sup>3</sup> It is particularly worrying that the project does not appear to be part of a broader process of penal reform aimed at reducing the use of imprisonment overall, but especially for vulnerable groups.

International experience shows that if prison places are built, over time ways are found to fill them. Given experience in the United Kingdom and Ireland, IPRT has serious concerns that the expansion in prison capacity may provoke changes in sentencing and detention policy leading to an increase in the number of prisoners detained.<sup>4</sup> Rather than an increased capacity being built to meet an increased demand, we are concerned that building extra prison places can become a self-fulfilling prophecy which will provoke changes in policy that lead to more people being imprisoned.

### **Recommendations:**

IPRT recommends that the Government:

- Make an unequivocal commitment that the prison building programme will not lead to an increase in the overall prison population;
- Make a precise and strategic commitment to reduce the overall prison population in the medium to long term to act as a safeguard against prison expansionism;
- Develop a clear strategy around the use of alternatives to custody and the removal of certain categories of offenders such as fine defaulters from the prison system.

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<sup>2</sup> The current operational capacities of the existing prisons at the Mountjoy site are: Mountjoy men’s prison: 547; St. Patrick’s Institution: 217; the Training Unit: 96; Dóchas Centre: 80.

<sup>3</sup> This can be contrasted with the approach of the Expert Group on Children Detention Schools, 2007.

<sup>4</sup> In Ireland, for example, the construction of a remand prison at Cloverhill has meant a significant increase in the detention of unconvicted prisoners on remand. Following the building of a number of new prisons through the 1990s, the prison population of England and Wales has almost doubled in the past fifteen years, instancing how a dramatic increase in prison population can easily occur. In that jurisdiction it appears that changes to sentencing law have been the main factor in increasing the prison population.

### **3. Overcrowding and Cell Design**

Government statements on the rationale behind the project have emphasised the need to address the current poor conditions in Mountjoy men's prison. These concerns are supported by international human rights bodies who have expressed concerns about overcrowding. While recent figures presented by the Irish Prison Service suggest that the prison estate is operating at close to 100% capacity, in many cases the stated "operational capacity" of prisons has been made significantly higher than the original design capacity simply by "doubling-up" on cell occupancy.<sup>5</sup>

Experience in Ireland and elsewhere has shown that overcrowding is a substantial obstacle to effective prison management, safe prisons and constructive regime. To date, no public information is available on cell-design or facilities in the new prison and while it appears that there are initial commitments to single-cell occupancy, IPRT is concerned that in time, such a policy could be replaced with double cell-occupancy with a detrimental impact on prison regime and conditions.

Perhaps the most persistent criticism of the physical condition of our prisons relates to their unsanitary conditions and the practice of slopping out.<sup>6</sup> The building of a modern new prison with in-cell sanitation and single-cell occupancy is urgently needed. Moreover, if prisoner numbers are maintained at present levels, the Thornton Hall and Kilworth projects could facilitate the rolling out of proper cell-occupancy and cell-sanitation standards across the whole prison estate. A commitment in this regard would help bring Ireland into line with international best practice in relation to cell conditions.<sup>7</sup>

#### **Recommendations:**

The Government is recommended to

- publish clear policy including a commitment to single occupancy of prison cells and
- publish details of how cell design is to be based on international practice and standards such as those in the Council of Europe Convention for the Prevention of Torture and the European Prison Rules.

IPRT recommends that the Irish Prison Service set as a policy target against a fixed timeline the provision of single-cell occupancy with full in-cell sanitation throughout the prison estate. Any additional capacity at Thornton Hall could then be used to address overcrowding in the existing prisons rather than to allow an increase in overall prison population.

### **4. Size and Location of the New Prison**

The proposed location of the prison at a remote site some 15 kilometres from Dublin city, presents a number of particular difficulties. Currently, many prisoner services, including counselling, rehabilitation services and support for reintegration in the community on

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<sup>5</sup> Figures published in the Irish Examiner on May 12<sup>th</sup> 2008 suggest that the prison system may be currently operating at approximately 19% over capacity.

<sup>6</sup> Mountjoy and St Patrick's Institution were identified as not being fit for human habitation by the Whitaker Committee in 1985 and conditions in those prisons have been the focus of consistent criticism from the Inspector of Prisons and international bodies such as the Council of Europe Committee for the Prevention of Torture.

<sup>7</sup> See Rules 18.5, 19.3 and 19.4 of the European Prison Rules.

release are provided by voluntary organisations many of which may find it difficult to provide these services at a remote site. Moreover, visitors may be inhibited from accessing the site due to its location and the lack of any regular public transport to the site. In our view, plans to provide a special bus service to the location will lead to additional problems of segregating and stigmatising prison visitors posing particular difficulties for families.

Other than the attractiveness of economies of scale, the rationale for choosing to build large prisons at remote locations is unclear. Larger prisons pose security and regime difficulties on a scale that have not faced our prison service before now. All over Europe, the trend is towards smaller regional prisons, which are more conducive to fostering a rehabilitative atmosphere and where it is easier to segregate different categories of prisoners. A large site has been purchased by the State, but this should not mean that facilities for a large number of detainees must necessarily be built. If there are financial concerns about getting value for Government expenditure on a large site, then we believe that the possibility of relocating to parts of the site other State service or agencies which would not be negatively impacted by co-location with a prison should be considered.

IPRT understands that the proposed prison will consist of a number of smaller self-contained prison units, which would be more conducive to the management of offenders and services. However, it is conscious that similar proposals in the past have not been successful in prisons such as Wheatfield prison, where due to resource constraints self-contained units have been combined.

### **Recommendations:**

IPRT strongly recommends that the Irish Prison Service

- take effective steps to ensure that visitors and service providers wishing to access the site are assisted to do so and are not segregated or easily identifiable in doing so;
- ensure spacious and appropriate accommodation is available for visitors, especially families.

In light of the concern about the challenges that will be posed in terms of security and regime at a large-scale prison, IPRT continues to recommend that

- the scale of the proposed prison at Thornton Hall be reviewed;
- any plans to design the new prison as a complex of separate units involves careful consideration of new management structures to ensure that the units operate as separate entities.

## **5. Public Private Partnership and Privatisation**

IPRT believes that in advance of any agreement to go ahead with this large and expensive capital project, questions need to be asked about how a public-private partnership will operate in the specific context of designing and maintaining a prison. Our primary concern here is about the potential impact this model of running the new prison may have on accountability within the prison system. The international evidence on private sector involvement in running prisons is not encouraging and recent experience here has raised questions about Government capacity to control these projects.

### **Recommendation:**

IPRT seeks assurances that management structures will be put in place to ensure that state authorities retain ultimate control for the level of services and maintenance in any new prison. Private sector involvement in the project must not interfere in any way with the effective accountability of all aspects of prison management.

## **6. Detention of Children**

Ireland's human rights obligations require that children not be detained alongside adults. This is mirrored by the prohibition in the Children Act 2001 of the imprisonment of those under 18 years. In this regard the continuing use of St Patrick's Institution to detain children over 16 years has been roundly criticised by the Committee on the Rights of the Child and the Council of Europe Commissioner for Human Rights. Despite longstanding commitments to remove all children from our prison system, it seems that contingency plans remain to transfer the minors currently detained in St Patrick's Institution to Thornton Hall if suitable alternatives are not in place by 2012. It is the view of IPRT that detaining children in Thornton Hall, even temporarily, is wholly unacceptable.

### **Recommendations:**

IPRT strongly recommends that

- the contingency plans to detain children on the Thornton Hall site be disposed of before there is any advance on the current project;
- the Minister for Justice, Equality and Law Reform and the Irish Youth Justice Service make a firm commitment that appropriate facilities to detain all children under 18 years will be put in place at the earliest possible opportunity.

## **7. Women's Prison**

Current proposals are to replace the Dóchas Centre, a model women's prison built only ten years ago, with a new women's prison with twice the capacity and at an isolated location. Overcrowding at the existing Dóchas Centre is cited as a reason for the construction of a new prison. In 2007, the Dóchas Centre operated at approximately 25% above operational capacity. However, on economic grounds, this cannot justify the construction of a new prison at double the size of the existing prison. The proposed Kilworth prison is also planned to provide more places than currently are available for the women currently detained in Limerick allowing for additional capacity at that prison. Also, in practical terms Dóchas can be separated from the other parts of the Mountjoy site and the plan to close the men's prison need not require its closure.

A recent review of the treatment of women offenders in the UK found that the most effective system of detaining women offenders is in geographically dispersed, small, multi-functional custodial centres.<sup>8</sup> At present, there are no open prisons for women in Ireland, despite the low risk of escape presented by women prisoners generally. There is also great

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<sup>8</sup> *The Corston Report: a Review of Women with Particular Vulnerabilities in the Criminal Justice System*, (HMSO, 2007) p 35.

potential for the development of alternatives to custody for many of the women coming before the criminal courts.

**Recommendations:**

IPRT recommends that

- the Dóchas Centre be retained and no women's prison constructed at Thornton Hall.
- any short-term capacity needs in relation to women prisoners be addressed by provision of one or more small localised, multi-functional custodial centres outside at locations outside Dublin;
- a comprehensive review of law and policy in relation to women offenders be conducted as a Government priority, looking in particular at the potential for development of alternatives to custody.

**8. Immigration Detention**

IPRT believes that detention should be used as measure of last resort. This principle has a particular resonance in relation to persons who have not been convicted of a criminal offence, such as irregular migrants of any kind. International human rights law is also clear that immigration related detainees should not be held at the same facility as persons convicted of criminal offences. Reports of plans for a large immigration detention facility at the site signal that Government may be planning to increase detention of asylum seekers notwithstanding that asylum seeker numbers continue to fall. Furthermore, current Irish immigration and asylum figures do not show any need for expanded immigration detention.

**Recommendation:**

IPRT recommends that the Government make a clear commitment that no immigration detention facility will be created at Thornton Hall.

**9. Co-location of Prison with Central Mental Hospital**

The proposed co-location of a prison with a relocated Central Mental Hospital presents clear difficulties for those providing medical care to the mentally ill and is completely unacceptable. Clinical grounds require that there should be no re-location of the Central Mental Hospital to the Thornton Hall site. IPRT believes that such a move would be seriously detrimental to the patients currently receiving treatment at the Central Mental and we support the campaign of the Irish Mental Health Coalition and the Central Mental Hospital Carers' Group against the proposed move.

**Recommendation:**

IPRT recommends that a comprehensive analysis of the potential impact of the proposed transfer on patients at the Central Mental Hospital should be undertaken.

**10. Accountability within the Prison System**

The capital project at Thornton Hall is concerned with the provision of new buildings, but the running of any new prisons will face many of the ongoing problems within the existing prison system. These include deficits in accountability and independent oversight as

required by the Optional Protocol to the UN Convention Against Torture; the need for integrated sentence management throughout the prison system and the need for greater coordination between the Prison Service and other state agencies such as the Probation Service and the Health Service Executive.

**Recommendations:**

IPRT recommends that before any significant prison-building project begins, systemic failings in the existing prison system must be addressed. These include the establishment of effective and well-resourced accountability and oversight systems and the introduction of integrated sentence management across the prison system.

**Irish Penal Reform Trust  
53 Parnell Square West  
Dublin 1  
IRELAND  
Tel: 00 353 1874 1400  
Email: [info@iprt.ie](mailto:info@iprt.ie)  
[www.iprt.ie](http://www.iprt.ie)**