****

**IPRT Submission to the NWCI CEDAW Shadow Report**

**September 2016**

**Submitting Stakeholder: Irish Penal Reform Trust**

Established in 1994, the Irish Penal Reform Trust (IPRT) is Ireland's leading non-governmental organisation campaigning for rights in the penal system and the progressive reform of Irish penal policy. Our vision is one of respect for human rights in the penal system, with prison as a sanction of last resort. We are committed to respecting the rights of everyone in the penal system and to reducing imprisonment. We are working towards progressive reform of the penal system based on evidence-led policies and on a commitment to combating social injustice.

IPRT publishes a wide range of policy positions and research documents; we campaign vigorously across a wide range of penal policy issues; and we have established IPRT as the leading independent voice in public debate on the Irish penal system.

**Contact Details:**

**Address:** Irish Penal Reform Trust [IPRT]

MACRO

1 Green Street

Dublin 7

IRELAND

**Phone:** 00353 1 874 1400

**Website:** [www.iprt.ie](http://www.iprt.ie)

**Twitter:** @IPRT

**Methodology**

In preparation for this submission, IPRT has relied on the findings of our 2013 Position Paper *Women in the Criminal Justice System*[[1]](#footnote-1), the independent reports of the Inspector of Prisons, the reports of the Prison Visiting Committees, and the findings and recommendations of the *Report of the Strategic Review Group on Penal Policy*[[2]](#footnote-2)*.* In late 2015 we consulted with women residing in the Dóchas Centre and quotes from that consultation are included. We have also included quotes from interviews with five Traveller women taken from our report *T*ravellers in the Irish Prison System: A qualitative study*[[3]](#footnote-3)* and interviews with women conducted for our report *Out on the Inside - LGBT people in prison[[4]](#footnote-4).*

**Issues**

In this submission, IPRT would like to draw the NWCI’s attention to a number of areas of pressing concern relating to women and the penal system in Ireland:

1. High numbers of women committed to prison
2. Conditions, regimes and activities
3. Mental health
4. Step-down and post-release programmes
5. Specific vulnerable groups:
6. Traveller women in prison
7. Transgender women in prison
8. Pregnant women in prison
9. Mothers in prison
10. Sex workers in prison
11. Barriers to CEDAW implementation

**Issue 1: High Numbers of Women Committed to Prison**

The continuing increase in the number of women committed to prison is a cause of grave concern to IPRT. The number of women committed to prison more than doubled between 2007 and 2014, rising by 57% from 1,155 in 2007 to 2,685 in 2014. In 2015, 2,918 women were committed to prison, compared to 2,685 in 2014.[[5]](#footnote-5) To put this in a longer term context, in 1990, there were only 155 committals of women to prison in Ireland but 2,918 in 2015.[[6]](#footnote-6)

Comparatively, the number of male committals increased overall by 20% between 2007 and 2014, and it has been reducing since 2011 (from a peak of 12,057 in 2010 to 10,723 in 2014).[[7]](#footnote-7) The fact that the rate of female prison committals has risen **more rapidly than the rate for males** is a substantial cause for concern.

**Table 2: Number of women imprisoned, 2007 - 2014**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **2007** | **2008** | **2009** | **2010** | **2011** | **2012** | **2013** | **2014** |
| No. | 1,155 | 1,225 | 1,459 | 1,701 | 1,902 | 2,151 | 2,326 | 2,685 |
| % of prison committals | 11.9% | 11.2% | 11.8% | 12% | 13.6% | 15.51% | 17.8% | 20% |

Source: Irish Prison Service, *Annual Reports 2007 – 2014*.

Some of the key factors contributing to this issue are set out below:

***Complex Needs***

Women engaged with the criminal justice system in Ireland constitute some of the most vulnerable women in the State. A wealth of literature has illustrated that female offenders are likely to be poor, have limited education, are either unemployed or in low skilled employment, and are significantly more likely to have experienced problems such as mental health issues, addiction, homelessness, domestic violence and childhood sexual abuse.[[8]](#footnote-8)

Quotes collected from women within the system illustrate this well:

*‘Then as my addiction went on and on, when I hit heroin, then I was robbing to feed the habit. I had the means to do it. And the two things mixed together’.*

*‘I know I was in for doing wrong, I’ll put me hand up and say that…I shouldn’t have been collecting social welfare. But I was living in and out of women’s refuges my whole life. What did they expect?...’[[9]](#footnote-9)*

***Overuse of Remand***

In 2014, the Strategic Review Group on Penal Policy noted a *‘higher use of remand in the case of female offenders in comparison to male offenders’.[[10]](#footnote-10)* Research from both Ireland and the UK indicates that women are more likely than men to be remanded to prison for offences that are not likely to lead to a custodial sentence.

Committal on remand is sometimes conceived of and used in a paternalistic, patriarchal manner with regards to female offenders, in that is often used to provide a point of stability in a chaotic life, or provide access to services to which the woman would not otherwise have access to, such as addiction services or counselling.[[11]](#footnote-11) Imprisonment should never be used as respite. Placing women on remand in custody can often have a detrimental effect on her wider life, in that she may lose her children to the care system, or lose her home, without having received a custodial sentence.

***Committals for Non-Payment of Court Ordered Fines***

Historically, the number of women committed for failure to pay court ordered fines has been high. IPRT notes and welcomes however, the expected reduction in female committals from January 2016 as a result of the implementation of the *Fines (Payment and Recovery) Act 2014*, which should reduce the number of women committed as a result of the non-payment of Court-ordered fines. However the *Fines (Payment and Recovery) Act 2014* only covers fines over 100 euro, and thus those from a particularly low financial threshold may not able to avail of its provisions.

***Short Term Prison Sentences***

The majority of female offenders have committed non-violent offences, and often receive short term sentences. The Irish Prison Service itself has acknowledged that female offenders tend to *‘pose a low risk to society’* so custodial sentences tend to be *‘disproportionately harsh’* on women and their families.[[12]](#footnote-12) In 2012, those committed for sentences of less than three months accounted for 83% of all female committals under sentence.[[13]](#footnote-13)

**Table 3: Number of women and sentence periods 1990, 2005, 2012**

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Year** | **<3m** | **3<6m** | **6<12m** | **1<2y** | **2<3y** | **3<5y** | **5<10y** | **10+** | **Life** | **Unspecified** | **Total** |
| **1990** | 54 | 18 | 53 | 25 | 3 | 0 | 0 | 1 | 0 | 1 | 155 |
| **2005** | 221 | 80 | 58 | 23 | 11 | 7 | 1 | 1 | 0 | 0 | 402 |
| **2012** | 1,736 | 171 | 121 | 23 | 23 | 11 | 7 | 0 | 0 | 0 | 2,092 |

Source: Inspector of Prisons, *Interim Report on the Dóchas Centre*, Chapter 2 at para 2.9

***Lack of gender specific non-custodial alternatives***

Gender equality with regards to the penal system does not mean that everyone should be treated in an identical manner, but refers to ‘treatment as an equal’.[[14]](#footnote-14) Female offenders have highly complex needs, and accordingly, services should be women-centric and needs-responsive.[[15]](#footnote-15) Crucially, Ireland lacks gender-specific non-custodial sentencing alternativesfor women engaged with the criminal justice system. In its reply to the CEDAW List of Issues, the government stated that women engaged with the criminal justice system are adequately catered for by the existing Community Service Order provisions. Yet, IPRT notes that such Community Service Orders are not gender-specificand thus do not adequately support the complex needs of these highly vulnerable women.

Similarly, while the numbers of women in custody has risen between 2011 and 2014, the numbers of non-custodial sanctions imposed on female offenders has declined; there was a 7.4% decline in the numbers of women on Probation Orders and a 9% decline in the numbers of women on Community Service Orders in the time frame.[[16]](#footnote-16)

**Table 1: Supervision of female offenders in the community 2011-2014**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Supervision**  **(Female Offenders)** | **2011** | **2012** | **2013** | **2014** |
| Probation Orders | 378 | 325 | 341 | 350 |
| Community Service Orders | 210 | 229 | 204 | 191 |

Source: *Probation Service Annual Report 2014*

***No open prison facilities for women***

The 2010 Bangkok Rules require that a gender-sensitive risk assessment and classification of prisoners *‘take into account the generally lower risk posed by women prisoners to others, as well as the particularly harmful effects that high security measures and increased levels of isolation can have on women prisoners’*.[[17]](#footnote-17)

Ireland lacks low security or open facilities for the few women in the Irish prison estate for whom a custodial sentence is suitable. At present, all women handed down a custodial sentence are held at medium security prisons at Dóchas in Dublin or Limerick female. Given that the existing system was designed for the needs of the male prisoner population, itthus falls short in terms of protecting the equality of women prisoners. and this has been recognised by the Dóchas Visiting Committee, which

*‘believes that the complete absence of gender appropriate open/step down facilities or community based open conditions for female offenders emphatically represents the unequal treatment of a needy cohort of detained persons, viz women’.*

As most female prisoners in Ireland are imprisoned for non-violent offences and for short term sentences, the absence of open facilities and non-custodial sentencing options present glaring gaps in the existing criminal justice system, which clearly does not cater adequately to the needs of this highly vulnerable group of women.

|  |
| --- |
| **IPRT recommends:**   1. **Increased investment in social services which provide early intervention and support for complex needs of women at risk of coming into contact with the criminal justice system** 2. **Conduct a review of the pre-trial detention of females in order to determine the reasons for the high level of females subject to ]remand.** 3. **Develop gender-specific bail services and supports to reduce the numbers of women remanded pre-trial.** 4. **Implement the Joint Strategy for Women who Offend and develop gender-specific non-custodial options for women, as an alternative to custodial sentences, which takes into account the complexity of female offenders’ needs.** 5. **Provide gender-specific open facilities for those very few women for whom a custodial sentence is suitable** |

**Issue 2: Conditions, Regimes and Activities**

***Overcrowding***

The conditions and regimes in existing women’s prisons in Ireland remain a substantial cause for concern. While the male prison estate has seen a decrease in overcrowding levels over the past number of years, the disproportionate increase in the female prison population has resulted in persistent overcrowding at both Dóchas and Limerick. On 1st September 2016, the Dóchas Centre was operating at 109% capacity (114 women living in a space built for 105), and Limerick prison was operating at 138% capacity (33 women living in a space suitable for 24).[[18]](#footnote-18) It is common for both female prisons to operate at this level of overcapacity.

The lack of alternatives to committal on remand and custodial sentences, as discussed with regards to Issues 1, 2 and 3 above, provide the main obstacle in alleviating overcrowding in Ireland’s women’s prisons. This has been clearly highlighted in the 2014 Strategic Review of Penal Policy, which stated that it is

*‘clear…that women’s prisons are now the most overcrowded in the State…the Review Group are concerned at the under use of alternative community programmes for women. The Review Group is also critical of the lack of open prison facilities for women’.[[19]](#footnote-19)*

Overcrowding has a detrimental impact on the everyday experiences of both prisoners and prison staff. It creates an uncomfortable living environment for prisoners, leads to the curtailment of services such as educational classes and hospital appointments, leads to a tense and fraught atmosphere, and thus inhibits an environment conducive to rehabilitation.[[20]](#footnote-20) Chronic overcrowding means that the prison simply cannot operate as it should.

The issue has been flagged on numerous occasions, including by the Inspector of Prisons, who deemed the situation to be ‘*unacceptable*’, and by the Dóchas Visiting Committee, who expressed concern ‘*that this pattern of regular overcrowding will continue and consequently the unacceptable knock on effects resurface*’.[[21]](#footnote-21) While the Prison Service has made a concerted attempt to deal with overcrowding at Limerick with the construction of a new unit *“to discontinue the use of the severely dated and unfit for purpose female facility there”[[22]](#footnote-22)* it is unclear what plans there are to improve the conditions atDóchas, despite the enduring, long term nature of the problem. While the Irish Prison Service has acknowledged the persistence of overcrowding at Dóchas, it has not produced any plans to deal with the situation at the facility, nor was there any mention of plans to reduce overcrowding in Dóchas in the Prison Service’s *Capital Plan 2016-2021*.[[23]](#footnote-23)

***Education***

The 2015 Dóchas Visiting Committee noted that frequent staff shortages have had a negative impact on education programmes, which have been cancelled repeatedly due to staff shortages.[[24]](#footnote-24) Similarly, the VC notes that classes tend to remain at very basic levels, with few opportunities for prisoners to advance in certain areas; for instance, horticulture and basic food preparation classes at Dóchas present no opportunity to advance to a more senior level.[[25]](#footnote-25)

Physical health and education classes are very important to prisoner’s mental and physical health, post-release reintegration and employment opportunities, and their overall rehabilitation. The situation described above runs contrary to CEDAW Articles 3, 10 (a) and 10 (e).

|  |
| --- |
| **IPRT recommends**   1. **Establish open facilities, introduce gender-specific alternatives such as home leave, halfway houses and community based programmes and services, gender-specific community sanctions, diversion programmes and holistic services in the community, in order to reduce overcrowding in Ireland’s women’s prisons and to provide a more effective response to women who offend.** 2. **Address the persistent problem of staff shortages to ensure that women can access education and meaningful activities on a consistent basis** 3. **Provide further investment in education to allow women to advance to more senior levels in their education while in prison.** |

**Issue 3: Mental Health**

The mental health status of female offenders and the standard of care offered to them remains a cause of concern to IPRT. Many female offenders struggle with mental health issues, and often continue to struggle with such issues while imprisoned, and after their release. It is an issue which appears frequently in IPRT’s work with female prisoners:

*‘I’ve seen people go off their head inside prison, they’ve had so much time to think. What they’ve done, what’s happening outside…I’ve seen women that have put ropes around their necks. Travelling women, for the same reasons. Dead. All that time, so much time to think’*.[[26]](#footnote-26)

*‘I was obviously suffering from depression and addiction at the time…I’ve suffered from depression since I was 14. Suicidal and all that.’[[27]](#footnote-27)*

*‘I was sitting in prison crying my eyes out. For every one say I was doing there, I’m doing two. I was thinking about what’s going to happen me when I went home…Life wasn’t going to change when I went home, life was going to get worse. And it did…I don’t think I’ll ever get it out of my heart. It’s me for the rest of me life. People tell you in there, ‘it goes away’. It never goes away. You’re in there at night and you’re crying. And you want to kill yourself.’[[28]](#footnote-28)*

In 2014, the Dóchas Visiting Committee criticised the use of imprisonment where alternative treatment, such as for addiction or mental health issues would have been much more appropriate, given that such treatment simply could not be provided to the same degree in prison:

*‘These women [requiring treatment] are sent to the Dóchas Centre from the courts when non-custodial, medical or therapeutic intervention could deal with their needs more appropriately and effectively’.[[29]](#footnote-29)*

This practice is at odds with the 2010 Bangkok Rules, which recommends that prisons

*‘ensure that those with mental health care needs are housed in accommodation which is not restrictive, and at the lowest possible security level, and receive appropriate treatment, rather than being placed in higher security level facilities solely due to their mental health problems’*.[[30]](#footnote-30)

|  |
| --- |
| **IPRT recommends:**  **Provide for the diversion of those who have committed minor offences with mental illness to community inpatient or outpatient facilities by specialist mental health courts.** |

**Issue 4: Step Down and Post-Release**

The Irish Prison Service Capital Strategy 2016 – 2021 recognises the need for lower-security facilities for female prisoners who are considered of low risk of re-offending, who may be approaching the end of their sentences and require facilities appropriate for release preparation, or who require specialist facilities and services beyond those provided for the wider population of female prisoners. Although this is scheduled for 2016 it does not seem that this has yet been actioned. It has been reported that the Probation Service have confirmed that Westview House on Patrick’s Hill was being considered by the Department of Justice and Equality for use as a potential ‘step-down’ facility for female ex-prisoners from Munster but there has been widespread local opposition to this development and it appears that the project has been shelved[[31]](#footnote-31).

Ireland lacks a much-needed nationally co-ordinated, gender-specific post-release support programme for women prisoners. The existing post-release support system remains patchy and ad hoc, and is not gender-specific. The services are concentrated around urban areas, and thus makes accessing such services difficult for women living rurally.[[32]](#footnote-32) Given the vulnerability of female prisoners, access to consistent post-release services is vital to prevent lapsing back into a chaotic lifestyle of addiction, homelessness, abusive relationships and so forth:

*‘I knew I was going back to that, but I didn’t want to use drugs. So I lasted three weeks without using drugs…And then after that I went completely up in a heap and I broke my TR [Temporary Release] and I was back in and out then for a while…I often cried because I knew what I was going to go back out to. You’re in a horrible place and you’re only going back out. Like people say you can’t wait to be free. Free from prison but you’re not free from the old lifestyle do you know what I mean? There’s no hope for the future like.’[[33]](#footnote-33)*

In its 2010 research into the reintegration of prisoners post-release, IPRT found that women struggled post-release, with many continuing to grapple with addiction issues due to the lack of available services, while one woman identified the lack of support for those without a home upon release:

*‘People that’s homeless getting sent out to the streets. The hostels or one night bed options is not suitable for people coming off, or trying to stay off drugs. If they are on the streets they will end up back to the same lifestyle and back in prison’.[[34]](#footnote-34)*

The State urgently needs to improve the post-release services offered to female prisoners in order to allow for complete rehabilitation and to aid the transition from imprisonment to liberty to bring existing practices in line with the 2010 Bangkok Rules, which requires authorities to ‘utilize options such as home leave, open prisons, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage’.[[35]](#footnote-35)

These services need to be nationally co-ordinated, tailored to women’s needs and available to women living in urban and rural areas. While the Irish Prison Service’s *Strategic Plan 2016-2018* states it will ‘introduce step down/open facilities for female offenders…make greater use of structured temporary release…[and] expand and enhance the Community Return and Community Support schemes’, no further detail has been provided as to how these will be tailored for women, and no detailed time frame for the establishment of these services has been published.[[36]](#footnote-36)

|  |
| --- |
| **IPRT recommends:**   1. **Create a national network of women-only support services for women on community sentences, sheltered housing, step-down facilities, ‘one-stop shops’ and other supports for women leaving prison. Further detail needs to be provided for the plans outlined in the *Strategic Plan* and a timeline for the establishment of these services should be published.** |

**Issue 5: Specific Vulnerable Groups**

As highlighted throughout this submission, women in prison in Ireland face significant human rights and equality challenges, but there are populations within this broader population who face particularly acute human rights and equality challenges in relation to the criminal justice system.

1. ***Traveller Women in Prison***

Traveller women are amongst the most discriminated groups in Irish society, facing discrimination on multiple levels; as women, as Travellers and as Traveller women.[[37]](#footnote-37) The All-Ireland Traveller Health Study found that the risk of imprisonment for Traveller women was 18 to 22 times higher than that of the general population.[[38]](#footnote-38) Accordingly, there is a grossly disproportionate number of Traveller women within the Irish prison system; although Travellers only account for 0.6% of the overall population in the Republic of Ireland, it has been estimated that they constitute 22% of the female prison population.[[39]](#footnote-39) Within prison, Traveller women continue to face discrimination, social isolation, and often struggle to access education and support services, while upon release they may face stigma and shunning by their family.[[40]](#footnote-40)

*‘The Traveller girls, they’d rather keep to themselves. If they go outside their groups, they’re slagged…Not to their faces, but at least if you’re with your own you know where you stand…You know what you’re getting.’[[41]](#footnote-41)*

*‘The Traveller women didn’t really get mixed up in, involved in the school and things going on over there, the arts and crafts…They might have felt a bit more comfortable going over, where their own was in one room. But for them to walk into a room with all settled people, even if they know how to read and write. Because I know how that feels. Maybe it was a bit intimidating.’[[42]](#footnote-42)*

*‘People do be printing leaflets and expecting people who can’t read to understand them…Like picking up leaflets in jail and reading them. Like I was in jail for 13 month*s. *I* *never heard about treatment once when I was in jail. It was literally a stone’s throw from where I was to where the place was over there. And obviously I can’t understand what I see.’[[43]](#footnote-43)*

The Irish Prison Service has pledged to deliver ‘improved services for all travellers within the system’, and to ‘examine particular issues faced by female travellers in custody’, and this is definitely a positive and welcome step. However, a timeline for the delivery of these services and further detail on what these services will entail would be welcome.[[44]](#footnote-44)

|  |
| --- |
| **IPRT recommends**  **Ireland provide clarity regarding the time frame for the delivery of services tailored to female Traveller prisoners, and for detail on what these services will entail.** |

1. ***Transgender Women in Prison***

There is a clear need to address the issues of transgender prisoners in Ireland. Although data for Ireland is lacking, international research indicates that transgender people are overrepresented in the prison population, and are more likely to suffer from mental health issues than the general population. They suffer abuse, discrimination, social isolation and struggle to access services and supports whilst in prison.[[45]](#footnote-45) Ireland currently has no specific policies on the accommodation or placement of transgender prisoners, nor does it have a clear policy on access to gender reassignment treatment while in prison.

*‘I was put into a shared cell…of course there was a lot of people in there who knew me, and of course everyone knew that I was effeminate et cetera, so of course the word went around like wildfire and I’d be queuing up to see the governor and there’d be maybe six blokes leaning on a railing and they’re going ‘would you, would you fuck him? What do you think of this bit of fluff? You’d never know it was a fucking fella would you?’ and all this. So I mean hearing all of this right? And this kid [cell-mate] was as paranoid as fuck at having me in the cell…because he’s thinking people are going to think that he’s having sex with me or something, and as a result he was a real bully’[[46]](#footnote-46)*

Ireland needs to address its lack of specific policies on the placement of transgender prisoners, particularly in the wake of the *Gender Recognition Act 2015*. While plans to develop a placement policy are mentioned in the IPS’ *Strategic Plan 2016-2018*, the phrasing is vague, and no time frame for the delivery of the policy is provided.[[47]](#footnote-47) This placement policy needs to be consultative, allowing for equal access to human rights, while all transgender prisoners should be accommodated in single cells. The safety, dignity and privacy of the prisoner should be paramount.[[48]](#footnote-48)

There is also a need for a clear policy on access to gender reassignment treatment while in prison. The existing ad hoc practice requires formalisation. The IPS statement in its *Strategic Plan 2016-2016* regarding transgender prisoners relates only to placement policy; there is no mention of a forthcoming policy on treatments.[[49]](#footnote-49)

|  |
| --- |
| **IPRT recommends:**  **Irish Prison Service**   * **develop specific policies on the placement of transgender prisoners, which involve the placement of such prisoners in single cell accommodation** * **develop a clear policy on access to gender reassignment treatment while in prison and** * **include a time frame for implementation and further details relating to the placement policy referred to in the IPS’ S*trategic Plan*.** |

1. ***Pregnant Women in Prison***

In those highly exceptional cases where expectant mothers require imprisonment, the lack of a Mother and Baby Unit at Limerick Prison presents a concern, potentially moving a woman further from her family and friends, and thus making family visitation more arduous and costly at a highly vulnerable and stressful point in her life. The lack of a Mother and Baby Unit outside of the capital places Ireland, again, in contravention of the 2010 Bangkok Rules, which recommends that *‘Women prisoners should be allocated, to the extent possible, to prisons close to their home or place of social rehabilitation, taking account of their caretaking responsibilities, as well as the individual woman’s preference and the availability of appropriate programmes and services’*.[[50]](#footnote-50) In the context of women in detention, IPRT interprets Article 12 of the CEDAW Convention as meaning that imprisoned mothers should have appropriate access to specific measures and provision in order to aid them and their children, before, during and after pregnancy. Such measures include the facilitation a strong, positive relationship between imprisoned mothers and their children.[[51]](#footnote-51)

IPRT supports the position of IHREC that the current legal position in Ireland in relation to abortion not only puts in place barriers which impede a woman’s right to bodily autonomy, but also that it has a disproportionate impact on women from lower socio-economic backgrounds and in particular women whose ability to travel may be circumscribed due to their status, including their status as female prisoners.[[52]](#footnote-52)

In the context of IPRT’s position as a human rights based organisation, our experience and knowledge of the position of women in detention as well as current and developing international human rights law relating to sexual and reproductive health, IPRT endorses the recommendations of IHREC, the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights that the State take all the steps necessary, including a referendum on abortion, to revise its law to bring it in line with international human rights standards.[[53]](#footnote-53)

|  |
| --- |
| **IPRT recommends that the State take all the steps necessary, including a referendum on abortion, to revise its law to bring it in line with international human rights standards**.[[54]](#footnote-54) |

1. ***Mothers in Prison***

Although there are no definitive public statistics available on the numbers of women in Irish prisons who are mothers, a 2002 study in the UK found that 66% of women in prisons were mothers, and that 33% were the sole carers of children prior to imprisonment.[[55]](#footnote-55) Consequently, only 5% of children were cared for in their home after their mother was sent to prison, with the majority being placed in the hands of care services.[[56]](#footnote-56) In comparison, most children continue to be cared for in their home when their father is imprisoned.[[57]](#footnote-57) It is clear from qualitative research that the maintenance of familial relationships is very important to female prisoners, who face the loss of their caring role once imprisoned, resulting in anxiety about their children and their standards of care, as well as anxiety about their children experiencing a prison environment when visiting.[[58]](#footnote-58)

IPRT’s research in Ireland has illustrated that separation of a child from their imprisoned parent can have a significant impact on the child concerned, including a breakdown of the parental-child relationship.[[59]](#footnote-59) It should of course be noted that in relation to the development of children, the CEDAW Convention states that *‘the interest of the children is the primordial consideration in all cases’*.[[60]](#footnote-60)

The decision to detain mothers with infants has been repeatedly and roundly criticised by the Dóchas Visiting Committee, which in 2015 remained *‘very concerned’* about the practice, following 2014’s statement that,

*‘We would like to reiterate that the imprisonment of mothers and young babies is never ideal and that non-custodial and community sentences should be developed more progressively. Separation of small children from their mother through imprisonment is a very high and lasting price to pay’*.[[61]](#footnote-61)

The lack of alternatives to custodial sentences places Ireland at odds with the 2010 Bangkok Rules, which states that *‘when sentencing or deciding on pre-trial measures for a pregnant woman or a child’s sole or primary caretaker, non-custodial measures should be preferred where possible and appropriate, with custodial sentences being considered when the offence is serious or violent’*.[[62]](#footnote-62) The imprisonment of mothers rather than allowing them to serve their sentence in their community presents a missed opportunity for the Irish system, and one which is detrimental to mothers and their children.[[63]](#footnote-63)

Given the fact that there are only two women’s prisons in Ireland, visitation can be geographically arduous and costly for many families, further straining attempts to maintain familial relationships. Both prisoners and their visitors, including children, tend to find visitation stressful and frustrating, with problematic overcrowding and noise levels in the visiting areas, as well as a lack of physical contact.[[64]](#footnote-64) A study in the UK found that most female inmates are never visited by their children, largely due to the problems outlined above.[[65]](#footnote-65) On consultation during IPRT’s research, one female prisoner desired that the authorities *‘show more compassion to mothers…better family friendly visits and longer visits for ours kids’*.[[66]](#footnote-66)

|  |
| --- |
| **IPRT recommends:**   1. **To develop alternatives to custody, which are specific to the requirements of mothers, to avoid the unnecessary imprisonment of mothers, in order to allow for the development of familial relationships in as normal a manner as possible and to promote both the mother and her children’s overall well-being.** 2. **To ensure that, where appropriate,** **contact between female prisoners and their children be facilitated and encouraged as much as possible.** 3. **To establish a Mother and Baby Unit at Limerick Prison** |

1. ***Sex Workers in Prison***

Sex workers in Irish prison populations remain a ‘hidden population’ due to the lack of data on prisoners formerly engaged/engaged in sex work. In its recent research on disease control in prisons, IPRT noted that, *‘The link between sex work and Hepatitis C and HIV are well documented. This has implications for reception to prison upon incarceration and makes the case for routine screening of all entrants to prison. It also has implications for health care provision amongst detainees who have been sex workers’*.[[67]](#footnote-67) International research suggests that inmates involved in sex work have specific needs relating to health care, securing housing, engaging with specific charities, while they also face the additional stigma of being a prisoner who also works in the sex industry. These women often struggle to engage with prison services due to the stigma surrounding sex work.[[68]](#footnote-68)

|  |
| --- |
| **IPRT recommends:**  **Develop a specific policy and services to** **aid sex workers in the penal system to help women who want to exit the industry or develop safer working practices. Counselling should be offered for those abused while working, and outreach links should be developed between prisons and the charities working with sex workers. This support service must be non-judgmental. Staff training would thus be required with regards to using non-stigmatising language.**[[69]](#footnote-69) |

**Issue 6: Barriers to CEDAW Implementation**

While IPRT notes and welcomes a number of positive developments over the past number of years such as the publication of a gender-specific strategy by the Irish Prison and Probation Services, very little of what was promised has actually been delivered. While the recognition that women prisoners have different needs to their male counterparts and the strategy itself are both very welcome, strategy without action makes very little difference to the lives of this vulnerable cohort of women in Irish prisons. IPRT hopes that the strategy will be reviewed at the end of 2016, as stated by Minister Fitzgerald earlier this summer, and that implementation will follow quickly.[[70]](#footnote-70)

Within the IPS, there is no dedicated focal point for the oversight of women’s prisons, the development of policy for women’s prisons, and the implementation of this policy. IPRT believes that the streamlining of this work into one specialised role would bring an improved sense of coherence to the female prison estate in Ireland, and ensure improved policy implementation with regards to women and the Irish criminal justice system.

|  |
| --- |
| **IPRT recommends:**   1. **Implementation of *Joint Probation Service – Irish Prison Service Strategy 2014-2016: An Effective Response to Women Who Offend*** 2. **Development of a focal point for the oversight of women’s prisons within the Irish Prison Service, which would ensure improved gender equality policy implementation and bring an improved sense of coherence to the female prison estate.** |

1. IPRT, *Position Paper 10 : Women in the Criminal Justice System: Towards a Non-Custodial Approach,* November 2013, available online at <http://www.iprt.ie/files/IPRT_Position_Paper_on_Women_in_the_Criminal_Justice_System.pdf>. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)
3. [↑](#footnote-ref-3)
4. [↑](#footnote-ref-4)
5. Irish Prison Service, *Annual Report 2015,* p. 29. Irish Prison Service, *Annual Report 2014,* p. 25. [↑](#footnote-ref-5)
6. Inspector of Prisons, *Interim Report on the Dóchas Centre*, Chapter 2, Paragraph 2.9 [↑](#footnote-ref-6)
7. Irish Prison Service, *Irish Prison Service Annual Reports 2007-2014*, available online here http://www.irishprisons.ie/images/annualstats/age\_gender\_2007\_2014.pdf [↑](#footnote-ref-7)
8. H. Kennedy, S. Monks, K. Curtain, B. Wright, S. Linehan, D. Duffy, C. Teljeur, *Mental health in Irish prisoners: psychiatric morbidity in sentenced, remanded and newly committed prisoners*, National Forensic Mental Health Service, Dublin, 2005. P. O’Maheny, *Key Issues for drugs policy in Irish prisons,* Drug Policy Action Group, Dublin, 2008. P. Carmody and M. McElroy, *A study of Irish female prisoners,* The Stationery Office, Dublin, 1996. IPRT, *The Vicious Circle of Social Exclusion and Crime: Ireland’s Disproportionate Punishment of the Poor*, 2012. M. Seymour and L. Costello, *A Study of the Number, Profile and Progression Routes of Homeless Persons before the Courts and in Custody,* Department of Justice, Equality and Law Reform, Dublin, 2005. P. Maycock and S. Sheridan, *Women’s ‘Journeys’ into Homelessness: Key Findings from a Biographical Study of Homeless Women in Ireland,* Trinity College Dublin, 2012. [↑](#footnote-ref-8)
9. IPRT, *Travellers in the Irish Prison System: A Qualitative Study,* 2014, p. 42. [↑](#footnote-ref-9)
10. Ibid, p. 65. [↑](#footnote-ref-10)
11. IPRT, *The Practice of Pre-Trial Detention in Ireland: Research Report,* 2016, pp. 47-48. Report of the Strategic Review Group on Penal Policy, July 2014, p. 65. [↑](#footnote-ref-11)
12. Dóchas Visiting Committee, *Dóchas Visiting Committee Annual Report 2015,* Dublin. Irish Prison and Probation Services, *Joint Probation Service – Irish Prison Service Strategy 2014-2016: An Effective Response to Women Who Offend,* p. 2. [↑](#footnote-ref-12)
13. Inspector of Prisons, *Inspector of Prisons Interim Report on the Dóchas Centre,* 2012, Ch. 2, Paragraph 2.9 [↑](#footnote-ref-13)
14. Baroness J. Corston, *The Corston Report,* London, 2007. [↑](#footnote-ref-14)
15. Emma J. Palmer & Clive R. Hollin, ‘Criminogenic need and women offenders: a critique of the literature’, *Legal and Criminological Psychology*, Vol. 11, Issue 2, 2006, and Laura d’Cruz, ‘Implementing an Offender Personality Disorder Strategy for Women’, *Prison Service Journal*, March 2015 [↑](#footnote-ref-15)
16. Irish Probation Service, *Probation Service Annual Report 2014.* [↑](#footnote-ref-16)
17. *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders* [Bangkok Rules], 2010, Rule 41 (a). [↑](#footnote-ref-17)
18. Irish Prison Service, *Daily Prison Population on Thursday 1st September 2016.*  [↑](#footnote-ref-18)
19. Cross-agency Review Group, *Strategic Review of Penal Policy,* Dept. of Justice and Equality, Dublin, 2014. [↑](#footnote-ref-19)
20. Dóchas Visiting Committee, *Annual Report 2015.*  [↑](#footnote-ref-20)
21. Inspector of Prisons Judge Michael O’Reilly, *Interim Report*, Dublin, 2013. Dóchas Visiting Committee, *2015 Dóchas Visiting Committee Annual Report,* Dublin, 2015. [↑](#footnote-ref-21)
22. Irish Prison Service’s *Capital Strategy 2016-2021* [↑](#footnote-ref-22)
23. Irish Prison Service, *Joint Probation Service – Irish Prison Service Strategy, 2014-2016: An Effective Response to Women Who Offend,* Dublin, 2014. [↑](#footnote-ref-23)
24. Dóchas Visiting Committee, *Annual Report 2015.* [↑](#footnote-ref-24)
25. Ibid. [↑](#footnote-ref-25)
26. IPRT, *Travellers in the Irish Prison System,* p. 28. [↑](#footnote-ref-26)
27. Ibid. [↑](#footnote-ref-27)
28. Ibid, p. 32. [↑](#footnote-ref-28)
29. Dóchas Visiting Committee, *Annual Report*, 2014. [↑](#footnote-ref-29)
30. Bangkok Rules, 2010. [↑](#footnote-ref-30)
31. <http://www.irishexaminer.com/ireland/location-of-ex-prisoner-facility-sparks-concern-392306.html> [last accessed 13 September 2016] [↑](#footnote-ref-31)
32. IPRT, ‘*It’s like stepping on a landmine...’: Reintegration of Prisoners in Ireland,* 2010, accessible online at www.iprt.ie/contents/1685 [↑](#footnote-ref-32)
33. IPRT, *Travellers in the Irish Prison System: A Qualitative Study,* 2014, p. 42. [↑](#footnote-ref-33)
34. IPRT, *‘It’s like stepping on a landmine…’: Reintegration of Prisoners in Ireland,* 2010. [↑](#footnote-ref-34)
35. *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders* [Bangkok Rules], 2010, Rule 45. [↑](#footnote-ref-35)
36. Irish Prison Service, *Strategic Plan 2016-2018,* Dublin, 2016. [↑](#footnote-ref-36)
37. Travellers constitute a small indigenous minority ethnic group in Ireland with a shared history and a distinct cultural identity, customs and traditions which distinguishes them from the majority population. The Taskforce on the Traveller Community (1995) suggested that visible markers of Traveller culture include ‘Traveller nomadism, the importance of the extended family, the Traveller language and the organisation of the Traveller economy…’ Data from the 2011 census indicates that there are 29,495 Travellers living in Ireland. See: http://cso.ie/en/media/csoie/census/documents/census2011profile7/Profile,7,Education,Ethnicity,and,Irish,Traveller,entire,doc.pdf [↑](#footnote-ref-37)
38. *All Ireland Traveller Health Study*, 2010. Summary available here, https://www.ucd.ie/t4cms/AITHS\_SUMMARY.pdf [↑](#footnote-ref-38)
39. IPRT, *Travellers in the Irish Prison System,* 2014, p. 8. [↑](#footnote-ref-39)
40. Ibid. [↑](#footnote-ref-40)
41. Ibid, p. 15. [↑](#footnote-ref-41)
42. Ibid. [↑](#footnote-ref-42)
43. Ibid, p. 21. [↑](#footnote-ref-43)
44. Irish Prison Service, *Strategic Plan 2016,* 2016, p. 28. [↑](#footnote-ref-44)
45. G.R. Brown and E. McDuffie, ‘Health care policies addressing transgender inmates in prison systems in the United States, *Journal of Correctional Health Care,* 15 (4), pp. 280-291. [↑](#footnote-ref-45)
46. IPRT, *Out on the Inside: The Rights, Experiences and Needs of LGBT People in Prison,* 2016, p. 19. For further quotes, see pages 18, 19 and 30. [↑](#footnote-ref-46)
47. Ibid, p. 29. [↑](#footnote-ref-47)
48. Yogyakarta Principles, 2006, Principle 9. All states should ensure ‘that all prisoners participate in decisions regarding the place of detention appropriate to their sexual orientation and their gender identity’ and need to ensure that ‘placement in detention avoids further marginalising persons on the basis of sexual orientation or gender identity or subjecting them to risk of violence, ill-treatment or physical, mental or sexual abuse’. [↑](#footnote-ref-48)
49. Irish Prison Service, *Strategic Plan,* 2016. [↑](#footnote-ref-49)
50. Bangkok Rules, 2010. For more see, Mary Rogan, <https://perceptionsofpregnancy.com/2014/10/19/pregnancy-childbirth-motherhood-in-prison/>. [↑](#footnote-ref-50)
51. CEDAW Convention, Article 12. [↑](#footnote-ref-51)
52. Paragraph 73, <http://www.ihrec.ie/download/pdf/ihrec_submission_to_cedaw_loipr_2015.pdf>. In Ireland abortion is criminalized under section 22 of the Protection of Life During Pregnancy Act, including in cases of rape, incest, fatal foetal abnormality and serious risks to the health of the mother, which may lead to up to 14 years imprisonment, except in cases that constitutes a “real and substantive risk” to the life of a pregnant women [↑](#footnote-ref-52)
53. UN Human Rights Committee, Concluding Comments in Relation to Ireland, 2014, Paragraph 9, available at http://www.ihrec.ie/download/pdf/un\_hrc\_concluding\_observations\_on\_ireland\_and\_iccpr\_24\_july\_2014.pdf. UN Committee on Economic, Social and Cultural Rights, Concluding Comments in Relation to Ireland, 2015, E/C.12/IRL/CO/3, CCPR/C/IRL/CO/4. [↑](#footnote-ref-53)
54. UN Human Rights Committee, Concluding Comments in Relation to Ireland, 2014, Paragraph 9, available at http://www.ihrec.ie/download/pdf/un\_hrc\_concluding\_observations\_on\_ireland\_and\_iccpr\_24\_july\_2014.pdf. UN Committee on Economic, Social and Cultural Rights, Concluding Comments in Relation to Ireland, 2015, E/C.12/IRL/CO/3, CCPR/C/IRL/CO/4. [↑](#footnote-ref-54)
55. Social Inclusion Unit, *Reducing re-offending by ex-prisoners,* London, 2002. [↑](#footnote-ref-55)
56. Cited in Y. Jewkes (ed.), *Handbook on Prisons,* William Publishing, Devon, 2007, p. 256. [↑](#footnote-ref-56)
57. Ibid. [↑](#footnote-ref-57)
58. S. O’Malley and C. Devaney, ‘Maintaining the mother-child relationship within the Irish prison system: the practitioner perspective’, *Probation Journal*, pp. 1-17, 2016. S. O’Malley and C. Devaney, ‘Supporting incarcerated mothers in Ireland with their familial relationships; a case for the revival of the social work role’, *Probation Journal*, pp. 1-17, 2016. L. Baldwin, ‘Alternatives to Custody’, *Criminal Law and Justice Weekly*, Vol. 179(45):891-893, 2015. Baroness Corston, *The Corston Report*, 2010. [↑](#footnote-ref-58)
59. IPRT, *Picking Up the Pieces: The Rights and Needs of Children and Families Affected by Imprisonment,* Dublin. [↑](#footnote-ref-59)
60. CEDAW Convention, Article 5 (b). [↑](#footnote-ref-60)
61. Dóchas Visiting Committee, *Annual Report*, 2015. Dóchas Visiting Committee, *Annual Report*, 2014. [↑](#footnote-ref-61)
62. Bangkok Rules, 2010, Point 9. [↑](#footnote-ref-62)
63. IPRT, *Picking Up the Pieces: The Rights and Needs of Children and Families Affected by Imprisonment*, 2012. O’Malley and Devaney, ‘Maintaining the mother-child relationship within the Irish prison system: the practitioner perspective’, *Probation Journal*, pp. 1-17, 2016. Lucy Baldwin, Alternatives to Custody, *Criminal Law and Justice Weekly*, Vol. 179(45):891-893, 2015. [↑](#footnote-ref-63)
64. IPRT, *Picking Up the Pieces*, p. 21. O’Malley and Devaney, ‘Maintaining the Mother-Child Relationship’, pp. 1-11. [↑](#footnote-ref-64)
65. K. Celinska, ‘The role of family in the lives of incarcerated women’, *Prison Service Journal,* May 2013. [↑](#footnote-ref-65)
66. IPRT, *Picking Up the Pieces.*  [↑](#footnote-ref-66)
67. IPRT, *Monitoring of HIV, HCV, TB in Prison: National Report on Ireland,* 2016, p. 34. [↑](#footnote-ref-67)
68. G. Ahearne, ‘Paying the Price: Sex Workers in Prison and the Reality of Stigma’, *Prison Service Journal,* January 2016, pp. 24-30. [↑](#footnote-ref-68)
69. G. Ahearne, ‘Paying the Price: Sex Workers in Prison and the Reality of Stigma’, *Prison Service Journal,* January 2016, pp. 24-30. [↑](#footnote-ref-69)
70. Minister Francis Fitzgerald, Dáil Éireann Debate, Vol 914, No. 1, p. 63, paragraph 83, 21 June 2016, accessible online here: https://www.kildarestreet.com/wrans/?id=2016-06-21a.153#g158.r [↑](#footnote-ref-70)