

# IPRT Briefing on Sanitation and Slopping Out in the Irish Prison System

**The ongoing practice of ‘slopping out’ in Irish prisons has received national and international condemnation. Despite Government assurances since 1993 that it will bring an end to this inhuman and degrading practice, it continues - in direct contravention of international human rights law.**

## Context

- The practice of ‘slopping out’ which takes place in Cork, Limerick, Mountjoy and Portlaoise prisons has a “direct and substantial bearing on the prison regime” and amounts to “inhuman and degrading treatment”<sup>1</sup> according to the Inspector of Prisons.
- Just under 30% of the Irish prison estate does not have in-cell sanitation. Where no in-cell facilities exist, prisoners urinate and defecate in buckets or portable units in the cell during lock up, which varies but is generally from 7.30pm to 8.00am and mealtimes during the day. A small number of prisoners are under 23-hour lock-up with no in-cell sanitation.
- The method used for slopping out in Irish prisons involves unlocking prisoners at certain times of the day. This typically occurs in the mornings. Prisoners then have to queue before emptying their buckets or pots into slop hoppers and, in some instances, into bins.
- The problems associated with slopping out are further exacerbated by overcrowding in the Irish Prison system, where prisoners may have to share cells with up to 4 others. Prison conditions are “unsafe, unhygienic and overcrowded”<sup>2</sup>
- The Irish Prison Service has recently piloted portable units with covers, and have committed to rolling these out across the prison estate where there is no in-cell sanitation at present. However, while a minor improvement, it still falls far short of the requirements of international human rights law.<sup>3</sup>

## The current situation in individual prisons

- **Cork prison** has a ‘bed capacity’ of 272, but the Inspector of Prisons has said that the “maximum population should not exceed 146”.<sup>4</sup> Only 8 cells in the D Unit have in-cell sanitation; the remainder are all multi-occupancy cells with no sanitary facilities. While the Inspector noted that the slop out facilities were “always clean and disinfected”, he repeatedly drew attention to the fact that slopping out is frequently accompanied by chronic overcrowding.
- **Limerick’s male prison** has 185 accommodation cells designed for single use; 55 of these cells have no in-cell sanitation. Although the Inspector has stated that the maximum held should be 185, the prison has a ‘bed capacity’ of 290, and is frequently overcrowded. The Visiting Committee at Limerick prison described the cell sanitation situation as a matter of “priority and urgency”.<sup>5</sup>

1 Inspector of Prisons, *The Irish Prison Population: An examination of the duties and obligations owed to prisoners*, July 2010, p. 46.

2 Mountjoy Prison Visiting Committee, *Annual Report 2009*.

3 Ibid. The Mountjoy Visiting Committee made observations on toilet facilities, stating that planned trial installations were “not the way forward... a programme of fitting out all cells should commence without delay and treated as a matter of urgent necessity.”

4 Inspector of Prisons, *The Irish Prison Population: An examination of the duties and obligations owed to prisoners*, July 2010, p. 47.

5 Limerick Prison Visiting Committee, *Annual Report 2009*.

- **Mountjoy prison** has 369 cells which require prisoners to slop out. Overcrowding is a serious problem in Mountjoy which currently has a bed capacity of 630, meaning that a significant majority of the prisoners are forced to slop out. The Inspector has criticised the prison for maintaining a population far in excess of 540.
- One Block in **Portlaoise prison** is without in-cell sanitation meaning that prisoners have to slop out in 135 cells. All of the cells in this block are single occupancy and are never doubled up. Prisoners have substantial out of cell time during the day.

## Court judgments and Recommendations of International Human Rights Bodies

- Slopping out has been found to constitute inhuman or degrading treatment in contravention of Articles 3 and 8 of the European Convention of Human Rights (ECHR) or to contribute towards findings of such violations in legal cases in Strasbourg.<sup>6</sup> In the Scottish case of *Napier v The Scottish Ministers*<sup>7</sup>, the combination of slopping out and prison overcrowding led to findings of inhuman and degrading treatment under Articles 3 and 8 of the ECHR. Following the decision in Napier, the Scottish authorities embarked on an extensive programme of modernisation to ensure all prisoners have in-cell sanitation. The Scottish Prison has also paid out millions in compensation to other prisoners.
- The CPT considers the act of discharging human waste in a confined space used as a living area to be degrading and has called upon the Irish government to “eradicate slopping out from the prison system.”<sup>8</sup>
- Although the recent Irish case of *Mulligan v Governor of Portlaoise Prison*<sup>9</sup> distinguished *Napier* from the slopping out regime in Portlaoise, IPRT believes that the judgment leaves open the possibility of a successful legal challenge in circumstances where slopping out is combined with overcrowding and insufficient out-of-cell time. In this regard, we believe that the emphasis in the judgment on the single-cell regime at Portlaoise is particularly significant.

## Our Recommendations

- 1. Slopping out must end as soon as possible.**
- 2. Government and the Irish Prison Service must have a plan to end it completely by a fixed date.**
- 3. Government and the Irish Prison Service must take interim measures to mitigate the effects of slopping out on prisoners.**
- 4. As a matter of urgency, the combination of overcrowding and slopping out must end. A specific plan should be put in place to address the situation in Cork, Mountjoy and Limerick Prisons immediately.**

## Further information

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<sup>6</sup> See *Peers v Greece* Application No. 28524/95, Judgment of 19 April 2001, *Kehayov v Bulgaria*, Application No. 41035/98, Judgment of 14 April 2005 and *Bakhmutsky v Russia*, see Application No. 36932/02, Judgment of 25 June 2009.

<sup>7</sup> [2004] S.L.T. 555

<sup>8</sup> Ibid. See Woolf, H (1991) *Prison Disturbances April 1990 Report of an Enquiry by Rt. Hon. Lord Justice Woolf (Parts I and II) and His Honour Judge Steven Tumin (Part II)* Cm 1456 (London: HMSO). Following the Woolf Report, the UK largely eliminated slopping-out across a much larger prison estate within 6 years. Today, there is no in-cell sanitation in 2,000 prison cells across 10 prisons.

<sup>9</sup> [2010] I.E.H.C. 269.