

# REDEMPTION WITHHELD FOR IRISH PRISONERS

Ireland is the only country in the EU that does not have 'spent convictions' legislation. A forthcoming Bill addressing this matter has the potential to be a landmark development in Irish law but uncertainty persists over several key issues. Report by Niall Byrne.

**A** campaigner for the rights of ex-offenders in the UK has slammed the lack of spent convictions legislation in Ireland, labelling it a "disgraceful and shameful social exclusion".

Spent convictions legislation affords ex-prisoners the right not to disclose a criminal record after a certain conviction-free time period.

Speaking at a recent event held by the Irish Penal Reform Trust (IPRT), Bobby Cummines OBE, who himself served time in his youth for armed robbery, noted that a nation like Ireland, which is admired for its intellectual capacity and forward vision, is letting itself down badly by this "disgraceful and shameful social exclusion".

"If I had gone to the Governor of Parkhurst all those years ago and said I was going to be a Fellow in the Royal Society, was going to be an OBE, would advise the Prime Minister and Home Secretary, he would have had me over to the hospital. But I'm doing it and I'm nothing special. I'm no different to the person I spoke to today who told me he did his degree in prison and couldn't get a job volunteering," he said.

Cummines, who is chief executive of UNLOCK, the National Association of Reformed Offenders, added: "Any type of discrimination, be it for age, gender, colour, ethnicity or physical disability is not acceptable in this century. Who knows



Bobby Cummines, chief executive of UNLOCK (the National Association of Reformed Offenders), said any type of discrimination is not acceptable in this century. (Pic: Derek Speirs)

what somebody is capable of unless they're allowed to exploit that capability?"

Cummines' address comes at a time when the Irish Government is preparing to publish a Spent Convictions Bill. Ireland is the only country in the EU, and one of very few in the Council of Europe, that does not have this legislation in place.

## RECORD IS BARRIER

Having a criminal record can be a barrier to employment, education and training, travel, banking, insurance and more. IPRT argues that this, in effect, means

that in Ireland punishment lasts a lifetime, no matter how minor the offence or how long after the sanction (whether a fine, a community service order or a period of imprisonment) has been discharged.

Liam Herrick, executive director of IPRT, described the commitment by the Government to publish a Spent Convictions Bill by July 2011 as "an exciting opportunity to finally right an injustice that has been in Irish society for too long".

However, he said the coming months will be crucial in determining how

progressive the final legislation will be, and even then there will be unresolved issues affecting the reintegration of ex-offenders into society.

“Hopefully this time we’re going to see a very landmark development in Irish law with regard to rights of former offenders,” he said. “There’s a very specific issue around spent conviction of criminal records, but the legislation will not be the end of the story even if we do get that far. There are a lot of practical barriers to reintegration and employment and people getting back into their lives.”

IPRT views the introduction of this legislation as absolutely essential, both in terms of the goal of reintegration of people and also in terms of public protection.

“We have a quite obscene system in Ireland where a judge can make his determination that the person suffers a finite and sometimes very short penalty for something they’ve done, yet for the rest of their life they suffer a permanent punishment in not being able to access employment, education, travel and insurance.

“It also affects a wider group – the family of the prisoner as well. The experience shows this is a recipe for reoffending and for people being trapped in a cycle of poverty and exclusion for the rest of their lives.”

The simple formula for addressing this problem is to give people an incentive for getting on with their lives. The prospect of having their criminal record expunged after a rehabilitation period is a powerful tool.

#### DISCLOSE CONVICTIONS

The previous government published a Spent Convictions Bill, which proposed for the first time in Irish law that former offenders would have the right not to disclose minor criminal convictions.

Herrick said at least it was recognition that Ireland was the only country where even the most minor of criminal records is a barrier to prisoners getting on with their life upon release.

“The current government intends to publish shortly a new bill which we believe will be somewhat stronger, though there are still some issues where we feel there is a lot of movement to be made.”

IPRT has identified three shortfalls that relate to the sentences eligible for



Pictured (l-r): Erin Gavin, Training and Education Officer, Business in the Community Ireland; Liam Herrick, Executive Director, Irish Penal Reform Trust; Esther Lynch, ICTU’s Head of Legal and Social Affairs; and Bobby Cummines OBE, Chief Executive, UNLOCK. (Pic: Derek Speirs)

expungement, the length of redemption period, and restrictions on the types of employment opportunities available for people after prison.

Herrick said the Government is talking about only creating a system that will benefit people convicted of a sentence of six months or less. “This is excluding from having a second chance a vast number of people convicted of quite minor criminal offences, including those convicted in the district court where they don’t even have a reported judgment that sends them to jail.”

The second issue relates to what constitutes a fair period of time for somebody to demonstrate they are reformed. “The previous government’s bill talked about a period of five to seven years. For somebody who makes a mistake at 18 they are obviously losing a significant part of their adult life for having a minor offence. We hope the government will move to a more reasonable period.”

The third issue relates to people seeking employment after leaving prison. “The Government has talked about excluding a large section of employment. There’s a paradox here where the government is asking the private sector to take on people with convictions but not the public sector. Engaging in employment is the best preventative measure against future offending.”

#### IRELAND VERSUS UK

Cummines remarked he was surprised when he found out Ireland didn’t have a Rehabilitation of Offenders Act, yet it gives prisoners the vote, something which the

UK Government has been reluctant to do.

“The Irish Government is ahead of England in that it gives prisoners the vote but they don’t have a redemption period. We live in a Christian democratic society but unfortunately on this matter it is not Christian and it is not democratic. No-one is allowed to redeem themselves and we’re locking people out of the community... and there’ll be another society to welcome them with open arms – the criminal society.”

UNLOCK analysed Home Office statistics and found that if somebody doesn’t reoffend within two years of being released from prison they are at the same risk of offending as someone who’s never had a criminal record.

“The most dangerous period after release is the first three months, when people need to be monitored and need the most support. After that they’re the same as everybody else,” said Cummines.

He recommended rehabilitation periods should be half the length of the sentence. For example, if somebody served 10 years in prison, the period of time after which they can apply to have their record expunged would be five years.

“That person should be allowed come before a tribunal and if they can produce evidence that they’re in employment or study, that they’re not associating with known criminals, that they’re doing some purposeful activity and not reoffending they should be given a redemption certificate. That means they don’t have to bring up their record every time they apply for employment.”