



IPRT Briefing on Overcrowding in Irish Prisons

*Defeating overcrowding in prison should be a goal of all those who want less crime.
(HM Chief Inspector of Prisons for Scotland, 2005)*

Context

In 1998, the European Committee for the Prevention of Torture (CPT) stated that overcrowding in Irish prisons was “endemic”. Not much has changed since, despite the largest ever prison-building programme undertaken in Ireland in the last 30 years. Overcrowding in Irish prisons is still at chronic levels, and must be addressed urgently. Penal expansionism has failed in Ireland. The CPT has expressly rejected prison-building as a response to overcrowding; the *Report of the Thornton Hall Project Review Group* has similarly found that overcrowding “will not be solved solely by building more prisons”.¹

The European Court of Human Rights has stated clearly that overcrowding in itself is a breach of human rights. The continuing situation in Ireland breaches the State’s obligations under international treaties, including the European Convention on Human Rights.

Overcrowding is an exacerbating factor for other systemic problems such as poor cell conditions, poor regimes (limited education and meaningful activity among others) and inter-prisoner tension and violence. The State has a duty to provide safe and humane custody for all prisoners. While IPRT welcomes recent moves to address overcrowding, including the passing of the *Fines Act 2010* and the *Criminal Justice (Community Service) (Amendment)(No. 2) Act 2011*, in 2011 prisoners continue to be accommodated in overcrowded conditions, with as many as 1,000 men having no access to in-cell sanitation.

Figures

- **On 5th October 2011, the number of prisoners in custody in Ireland was 4,257².** The number of prisoners in custody has been as high as 4,587 on 12th April, 2011. *(These figures do not include those out on temporary release)*. The prison population in Ireland has doubled in the last 20 years, from 2,100 prisoners in 1990 to consistently over 4,200 in 2011.
- **On 30th November 2010, the number of prisoners in custody was 4,440³.** The reported ‘average bed capacity’ of the prison estate in Ireland in 2010 was 4,203 spaces⁴. However, ‘bed capacity’ figures – achieved by ‘doubling-up’ of prisoners in cells designed for single occupancy – hide the fact that the design capacity of the prisons is significantly smaller. Many prisoners have to share small cells on a regular basis with one, two or three other prisoners. Time out of cell is very limited, and the pressure on numbers held in prisons worsens the situation even further.
- Throughout 2010, ten out of the 14 Irish prisons operated at over their bed capacity, with Mountjoy Prison (female) operating at 138% and Cork Prison (male) at 111%. However, when measured against the recommended capacity as detailed by the Inspector of Prisons⁵, Cork Prison consistently runs at 150% capacity.

1 *Report of Thornton Hall Project Review Group* (July 2011) available at: <http://www.justice.ie/en/JELR/ThorntonReviewReportRedacted.pdf/Files/ThorntonReviewReportRedacted.pdf>.

2 Dáil Questions, 6th October 2011

3 *Irish Prison Service Annual Report 2010*

4 *Ibid.*

5 Inspector of Prisons, *The Irish Prison Population - an examination of duties and obligations owed to prisoners* (July 2010)

Short-term measures

- **Set safe custody limits, informed by basic human rights standards.**
The limits on the number of prisoners who can be admitted to each prison without risk to their safety, and the safety of staff, should be introduced as a matter of priority. Safe custody limits will act as a critical safety check within the system and will also force authorities to accept responsibility for overcrowding.
- **Expedite the full commencement of the Fines Act 2010.**
The upgrade of the Courts ICT System necessary to facilitate payment of fines by instalment must be initiated with urgency, and S.15 of the Act fully commenced.
- **Structured early release of non-violent, low risk offenders.**
Structured, planned release mechanisms play an important role in the reintegration of prisoners. Temporary release should not be used as a safety-valve for the overcrowded system, as it is used at the moment, but should be part of a concerted effort to remove less serious offenders from prisons. Review of current parole and remissions regimes are also necessary to support incentivised regimes within prison.
- **Monitor implementation of the Criminal Justice (Community Service)(Amendment)(No. 2) Act 2011.**
IPRT welcomed this legislation which requires Judges to consider community service for those offences which would otherwise attract a custodial sentence of up to 12 months. Government must monitor the extent to which the scheme is being uniformly applied across the Courts, in particular the District Courts, and also ensure that Community Service Orders are used only where the individual would otherwise receive a custodial sentence, and not to draw more people into the criminal justice system.

Medium term measures

- **Bring an immediate end to immigration detention.**
This practice contravenes international human rights standards; alternative provision should be made.
- **Change remand practices.**
In 2010, there were 4,836 committals on remand⁶. The Government, the Courts Service and the Prison Service should conduct an analysis of how many people remanded in custody go on to receive a custodial sentence, and assess the necessity of using this measure to the extent it is currently used, and the level of risk that remand prisoners pose to public safety.

Long-term measures

- **More investment in preparation for release and post-release support.**
Reduce recidivism through the successful return of former prisoners to their families and communities. Investing in post-release support has great potential for reducing the overall prison population, and ultimately cost.
- **Introduce 'imprisonment as a last resort' legislation.**
Imprisonment should be used only as a measure of last resort, and for the shortest appropriate time. Judges should be legally required to first consider and rule out all other options before imposing a prison sentence. Judges should also be required to give reasons for imposition of a prison sentence in their judgments.
- **Close four old, ill-suited prison spaces for every three new prison spaces that are built.⁷**
Separate positive plans to replace old prisons in which physical conditions are not in accordance with international human rights standards from disastrous trends towards penal expansion.

Further information

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⁶ Irish Prison Service Annual Report 2010

⁷ See: A response by Professor Ian O'Donnell to presentations at 'Reimagining the Role of Prison in Irish Society – an Open Forum', which took place on Thursday June 18th, 2009, hosted by Irish Penal Reform Trust [available at: http://www.iprt.ie/files/ODonnell_OpenForum_Dublin_18062009.pdf].