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# Making Rights Real for People with Disabilities in Prison

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Coimisiún na hÉireann  
um Chearta an Duine  
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# About the Project

- Commissioned by the IPRT
- Funded by IHREC
- Interviewed 31 people
  - 16 People with disabilities in prison
  - 4 prison staff
  - 3 Disability rights advocates
  - 1 Penal reform advocate
  - 7 Stakeholders across the criminal justice system



# Who are Prisoners with Disabilities?

Human rights conception of disability –

“Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”

- Article 1, Convention on the Rights of Persons with Disabilities

# Human Rights Framework

Several general human rights instruments - UDHR, ECHR, ICCPR, CAT

Prisoners Rights Framework – Mandela Rules, European Rules

Disability Rights Framework -

Convention on the Rights of Persons with Disabilities

- Equality and Non-Discrimination
- Accessibility
- Reasonable Accommodation
- Access to Justice (Article 13)

# Human Rights Framework

## **ECHR – (Article 3)**

Semikhvostov v Russia - violation of article 3 of the European Convention on Human Rights (prohibition of torture) due to the lack of accessibility for a disabled prisoner

Price v UK - inaccessible cell and restroom amounted to degrading treatment

D.G. v Poland - man had to rely on his fellow inmates for mobility and sanitation

Other institutional settings – forensic psychiatric settings, residential services



# Irish Prisons

- Prison Population: 4,384 mainly sort term <1 year
- Governed by the Prison Act 2007 which gives effect to the SI Prisons Rules 2007
  - Broadly rooted in the Mandela Standards
  - Rules foresee transfer to specific facilities for disabled people
  - Limited consideration for disabled prisoners

*“I think one of the big issues with prison is if you don’t fall within the norm of being an 18-30-year-old, able-bodied male - and even using that term itself I know is not ideal. But if you don’t fit within that sort of norm, prison is going to be a challenge for you.”*

# Environmental Access

Physical environment an issue across impairment types

## **Sensory accessibility**

*“When they slam that door at 7 o’clock, that is it, you are in there until there until the next morning.”*

## ***Physical accessibility***

*“Prison officers wouldn’t take me anywhere because they weren’t insured to push the wheelchair.”*

*“There are steps everywhere”*



# Access to Information

- Huge amount of information not written down
- Written in plain language
- No easy read available

*“I try and make my own meaning up of it.”*

*“To be honest with you I was too embarrassed to ask anyone else. Do you know, for my situation, I left school at an early age and I never got to learn how to read and write in school.”*

# Communication Accessibility

- No understanding of different forms of communication
- Created barriers
- Exasperated tensions

*“My short-term memory is shot. You see the way I’m speaking to you now and telling something, a lot of things I said, it would be in my head somewhere but it would come back to me. And that’s a big problem when I’m especially talking to, as I call them, the screws. I keep falling out with them because they tell me to do, I keep forgetting to do things, you know, but they don’t understand the problem I have because - they’re all just the same to them, they’re in prison.”*

# Communication Accessibility

*“It could be communication issues that aren’t fully, I suppose, addressed that could end up with a frustrating situation for both prisoner and Prisoner Officers that, and sometimes you know it can be an aggressive outburst, purely down to the frustration of the prisoner concerned not being able to communicate appropriately”- Public Servant*

# Communication Accessibility

## Isolation as a result of communication inaccessibility

*"I'm the only Deaf person here. Like there isn't anybody to talk to."*

*"it's not good for your brain, you know. Like you sort of, you slow down, you know. I think your brain kind of slows down, like"*

*"Even talking to prisoners or anything, it's hard, when they're speaking back, I can't hear them, I'm saying 'What?' So, the people didn't know me yet, they don't know me, and they kept on saying what, it's ignorant, I'd end up getting a box in the head or something, eventually."*

# Rights Literacy

Minimal understanding of rights:

Confusion of rights v regime

*“It does a bit; it goes on about rules and regulations on that book but it doesn’t give your rights.”*

*“I’ve a little book about that size but it doesn’t say your rights in it ... it’s hard to understand it.”*

# Rules, Discipline and Regime

Confusion around the Rules:

*“I didn’t get any rule book, I didn’t get nothing really like you know what I mean? “*

*“At the start there was no one telling me anything, the prisoners were telling me what I was entitled to, what I wasn’t entitled to. Even as an ordinary just, coming in as a prisoner without a disability I found it very hard to find out what way the regime was.”*

*“You just learn them as you go along. You get an IR [disciplinary action]”*

# Rules, Discipline and Regime

## Incentivised Regime

Three levels – Basic, Standard and Enhanced

Each have different privileges related to gratuity, communication and visits

Entitlements and treatment based on regime

Significant confusion around how to navigate the regime:

*“it is very hard to get enhanced [you have to] do the gym every single day like, for eight weeks. Or else you can do the school. You have to [do] five subjects in the school to get enhanced like.”*



# Rules, Discipline and Regime

Prisoners with disabilities struggled to navigate the regime:

*“So, I’m just finding it very hard to get off basic. I am getting some acceptable weeks and some unacceptable weeks.”*

Prisoners also inadvertently penalised for not engaging with services that weren’t directly:

*“I haven’t been in any trouble and that’s all been written down. I haven’t been in any trouble and like if you have good behaviours, you’re supposed to be transferred”*



# Isolation

"It is used by default for people with mental health issues, absolutely and again it comes back to doing something that we do in prisons which is lock people in a room when they're at a risk of self-harming or harming others, which we wouldn't do in a clinical setting because it's the safest place we have them."

"I was okay because I can read, and I can write. But I would say for someone who can't read, to be in isolation would be horrible because there is nothing to get away from your head whereas in reading you can kind of escape."

# Reasonable Accommodation

*“I can’t be leaning over the table. You can’t move the chairs either, they’re boarded to the floor like but when I came in here they should have accommodated me better for my visits because they couldn’t hug them or anything you know what I mean, so?”*

*“I told them, but they’re not just going to give me special treatment.”*

*“There doesn’t seem to be a planned approach in terms of making reasonable accommodations for people so that they can participate fully in prison life if they happen to have a disability. It’s really down to the good will and nature of individual Prison Officers, Class Officers and fellow prisoners, rather than it being a formalized part of the day to day running of the prison.”*

*“I am not allowed my white stick; they won’t give me my white stick. So, I haven’t got a white stick, they take it off me because it’s dangerous.”*

# Non-Discrimination in Prison Services

Direct and indirect discrimination in accessing prison services such as **education**:

*“Some teachers have no tolerance at all”*

*“Some teachers are not so good with that kind of [invisible] disability”*

*“I can’t go into a class because the teacher’s speaking and I can’t hear them talk. I tried it, like I tried loads of times”*

# Non-Discrimination in Prison Services

Access to **employment** in a prison setting:

*“No, no. I’m waiting but I haven’t heard anything, like. I’ve had good behaviour, like.”*

*“Am I asking like can I get a job and the guards are like oh wait, oh yeah, we will let you know, we’ll let you know, wait, wait, wait. And then there’s some list and your name is on the list, whatever, but it’s no good, like. do you know what I mean, and you get a job.”*

# Health

“And there’s no one to help him talk which I think is wrong. There’s no speech therapy whatsoever, he doesn’t talk to any of the prisoners.”

“Just the medication runs out on me, they won’t give me, I have to go and pick it up in the chemist, in the doctor’s in here but sometimes they come around, they don’t have it on them, they just don’t come near me.”<sup>2</sup>

“I mean like I think that the Prison Service is quite medicalised and informed by the medical model which is obviously difficult for the psychology service.”<sup>228</sup>

“A complete dearth of provision and a complete disregard for human rights for people with mental health disabilities in prisons.”<sup>229</sup>

# Support

Reliant on other inmates for support in many cases:

“But my mate, he kind of transcripts stuff to me, yeah? He's like a brother to me. So, say I could be doing a course, he'd tell me [name], they're at such a thing', so he'd see it. I wouldn't be always now, yeah. Sometimes if it was just a day course or something, yeah.

“The prisoners are very good, they'd come in, they help me clean my cell and you know, they're very good like that.”



# Support

*"It's funny and people in the community mightn't see it but you'd see a Prison Officer and a prisoner working together. Like they might say, 'Like [name], come on, come on, come on', and the Officer might be saying, '[name] you have to go in', and he'd be talking to him this way and then his cell mate would bring him in, he'd be coaxing him in."*



# Transition From Prison

Concern of prisoners with disabilities not getting parole, step down services, community and temporary release:

*“I can’t go to an open jail because there’s no medical team there 24 hours a day.”*

*“There are other fellas getting schemes, they’re getting on this, they’re doing, you know what I mean?”*

*I mean, like why am I being, why am I still here when I have the same charge as them?”*

# Transition From Prison

Pre and post release support identified as a concern amongst prisoners –

*‘I could do with some person to help me yeah, just have a course or scheme or a job or something else like because like I’ll be going from structure into no structure again. And that’s how I’ve reoffended you know. Having no structure.’*

*‘Being honest with you I’d say before I get out, I’ll be stressed out because I’ve been in here so long. It’ll be different. If I got into normal jail or something and I started getting weekends I would get used to... like when I’m getting out, I don’t even know if I want to get out because I’ve been in that long, even though I have a family and all out there. But I’ve been in prison so long.’*

# Conclusions

Disabled prisoners were disadvantaged at every point in prisoner life

Prison staff reliant on own knowledge - subject to their own biases.

More research needs to be done on the extent of the rights violations experienced

Room for reform at every level – training, regime, services and environment



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