



**NGO Submission to the
64th Pre-Sessional Working Group of the
Committee on the Elimination of Discrimination Against Women
in respect of IRELAND
LIST OF ISSUES PRIOR TO REPORTING (LOIPR 2015)
October 2015**

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.

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IPRT suggests that the Irish government should be asked the following questions:

1. What steps are being taken to ensure that Ireland is in full compliance with the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the Bangkok Rules)? In this regard, what is the timeline for providing an open prison for women in Ireland?
2. What steps are being taken towards full implementation of the *Joint Probation Service – Irish Prison Service Strategy 2014 – 2016: An Effective Response to Women Who Offend*?
3. What steps are being taken to implement the recommendations of the *Report of the Strategic Review Group on Penal Policy* as they relate to female offenders?
4. In respect of 1-3 above, what steps are being taken to ensure the appropriate human and financial resources are made available in order to implement these measures that will reduce the unnecessary imprisonment of women?
5. Will Ireland conduct a review of the use of pre-trial detention of females in order to determine the reasons for the high level of female offenders subjected to committal remand?
6. What steps are being taken to implement the provisions of the Fines (Payment and Recovery) Act 2014 which, if operationalized, would reduce the numbers of women being sent to prison for failure/inability to pay court-ordered fines?
7. What steps are being taken to continuously improve mental health services for women in prison and to divert women with mental health problems away from custody and into therapeutic care?
8. When and how does Ireland plan to 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?
9. How does Ireland intend to re-orientate strategic thinking about how to address offending by women, to prevent the harm caused to their families and the intergenerational harm exacerbated by imprisonment of the mother?
10. Can Ireland clarify its approach to pregnant female prisoners and what steps are taken to ensure their access to sexual and reproductive rights and health services are in conformity with international human rights law?

Methodology

In preparation for this submission IPRT has relied on the findings of our recent Position Paper “*Women in the Criminal Justice System*” published December 2013¹, 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*. We have also directly consulted with the *Traveller in Prison Initiative*² on the experiences of female Traveller prisoners, and also with women currently residing in the two female prisons in Ireland, namely the Dóchas Centre and Limerick Female Prison.

While there are two open prisons and one semi-open unit for males in Ireland³, there is no open prison in Ireland for women. Female prisoners in Ireland are detained either at the Dóchas Centre (Dublin) or at Limerick Female Prison. In 2014, women made up 20% of prison committals,⁴ and 3.8% of the daily prison population⁵. On any given day, there are approximately 140 women in custody in Ireland.⁶

Below, IPRT draws your attention to a number of issues of particular concern regarding Ireland for your consideration in advance of the adoption of the List of Issues Prior to Reporting –

1. Complex needs of female offenders
2. Increasing female prison committals
3. Overuse of remand for female defendants
4. Impact of overcrowding on conditions and regimes for women
5. Traveller women in prison
6. Access to reproductive health services for female prisoners
7. Position of mothers/contact with family
8. Supports for women on release from prison

Issue 1: Complex Needs of Female Offenders

According to both the Probation Service and the Irish Prison Service, “[m]ost women who offend pose a low risk to society; however they generally have a high level of need”⁷ and Irish women generally “commit crime which poses less risk of harm or violence to the public and is more acquisitive in nature”⁸. In relation to female sentenced committals in 2014, just over 50% were for either public order or road traffic offences.⁹ A significant number of these

¹ http://www.iprt.ie/files/IPRT_Position_Paper_on_Women_in_the_Criminal_Justice_System.pdf

² http://www.ssgt.ie/travellers_in_prison_initiative.html

³ The open prisons are Loughan House and Shelton Abbey; the semi-open Training Unit is part of the Mountjoy Prison Campus.

⁴ http://www.irishprisons.ie/images/annualstats/age_gender_2007_2014.pdf

⁵ Irish Prison Service *Annual Report 2014*, available at: http://www.irishprisons.ie/images/pdf/ar2014_english.pdf

⁶ On Tuesday 6th October 2015 there were 131 females in custody. See Prisoner Population on Tuesday 6th October 2015, available at: http://www.irishprisons.ie/images/dailynumbers/06_october_2015.pdf

⁷ *Joint Probation Service – Irish Prison Service Strategy 2014 – 2016: An Effective Response to Women Who Offend*, March 2014, pg 2.

⁸ *Joint Probation Service – Irish Prison Service Strategy 2014 – 2016: An Effective Response to Women Who Offend*, March 2014, pg 2.

⁹ *Offence Groups of Sentenced Committals by Year 2007 – 2014*, available at: http://www.irishprisons.ie/images/annualstats/committal_offence_group_2007_2014.pdf

committals to prison were for failure to pay the court-ordered fines handed down for the offence.

A strong body of research literature shows that women offenders who come into contact with the criminal justice system tend to be particularly vulnerable in many respects. Women offenders are likely to be poor, have limited education and are either unemployed or in low skilled employment. Notably, such women are at high risk of experiencing: mental health problems¹⁰, drug dependency¹¹, homelessness¹² and childhood sexual abuse¹³. The Prison Visiting Committee for the Dóchas Centre has commented

*“The Visiting Committee has direct experience of meeting with women in the Dóchas Centre who are in need of treatment for addiction or mental health issues. These women 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.”*¹⁴

Of particular concern, the Visiting Committee also recently observed that

*“It is the experience of the Visiting Committee that some women are not released when they should be, due to homelessness. This matter needs to be urgently addressed, with appropriate agencies taking responsibility for these women”.*¹⁵

This is a damning indictment of the level of community-based services which are available to female offenders both pre- and post-release. Prison is not and should not be an alternative to appropriate, accessible community-based supports and services.

IPRT suggests that the Committee asks Ireland

- (i) to explain what steps are being taken to ensure that Ireland is in full compliance with the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the Bangkok Rules).**
- (ii) In this regard, given the lack of provision for any open prison for women, to clarify what is the timeline for providing an open prison for women in Ireland.**
- (iii) that consideration be given to amending the existing legislative framework to provide for the diversion of those who have committed minor offences with**

¹⁰ See Kennedy, H, Monks, S, Curtain, K, Wright, B, Linehan, S, Duffy, D, Teljeur, C (2005), ‘Mental health in Irish prisoners: psychiatric morbidity in sentenced, remanded and newly committed prisoners’, National Forensic Mental Health Service, Dublin.

¹¹ See O’Mahony P (2008), *Key issues for drugs policy in Irish prisons*, Dublin: Drug Policy Action Group; Carmody, P & McElroy, M (1996) *A study of Irish female prisoners*, the Stationery Office, Dublin. See also, Light, M, Grant, E, Hopkins, K (2013), *Gender differences in substance misuse and mental health among prisoners*, Ministry of Justice, London.

¹² See IPRT (2012), *The vicious circle of social exclusion and crime: Ireland’s disproportionate punishment of the poor*. See also, Seymour, M & Costello, L (2005) *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. See also, Mayock, P and Sheridan, S (2012), *Women’s ‘journeys’ to homelessness: Key findings from a biographical study of homeless women in Ireland*, Women and Homelessness in Ireland, Research Paper 1. Dublin: School of Social Work and Social Policy and Children’s Research Centre, Trinity College Dublin.

¹³ Inspector of Prisons Interim Report on the Dóchas Centre, Chapter 2 at para 2.11

¹⁴ Dóchas Centre Visiting Committee Annual Report 2014, at page 4.

¹⁵ Ibid.

mental illness to community inpatient or outpatient facilities by specialist mental health courts

Issue 2: Increasing number of women committed to prison

Women who commit crime comprise a relatively small yet increasing proportion of those in contact with the criminal justice system in Ireland. The number of women committed to prison more than doubled (it increased by 57%) from 2007 to 2014, and it continues to rise. (In 2007 the number of female committals was 1,155 as compared with 2,685 in 2014.¹⁶) In contrast, during the same period of time, the number of male committals increased overall by 20% and has reduced since 2011 (from 8,556 in 2007, peaking at 12,057 in 2010, with a reduction to 10,723 in 2014¹⁷). The fact that the rate of female prison committals has been rising *more rapidly than the rate for males* is a substantial cause for concern¹⁸.

Table 1: 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
% prison committals	11.9%	11.2%	11.8%	12%	13.6%	15.51%	17.8%	20%

Source: *Irish Prison Service annual reports 2007 – 2014*.

To place these figures in a longer-term historical context, in 1990 there were only 155 committals of women to prison in Ireland¹⁹:

Table 2: 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*

The vast majority of women committed to prison are sentenced for less than 12 months, with the majority of these committed for less than three months. In 2012, those committed for sentences of less than three months accounted for 83% of all female committals under sentence.

¹⁶ Available at: http://www.irishprisons.ie/images/annualstats/age_gender_2007_2014.pdf

¹⁷ Ibid.

¹⁸ Article 2 of CEDAW requires that “States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle”. More specifically, Article 2(g) compels all States Parties to “repeal all national penal provisions which constitute discrimination against women”.

¹⁹ Inspector of Prisons Interim Report on the Dóchas Centre, Chapter 2 at para 2.9

Of note is that the number of probation orders and supervision orders (non-custodial sanctions) imposed on female offenders actually *decreased* overall between 2011 and 2014:

Table 3: 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*

A strong theme which came across in consultation with female prisoners was the need for more non-custodial options for women:

“such as community service or electronic tags...just to get back out to be with their children...not fines, as many just don’t have the money...If on drugs, more use of the drug courts before putting into prison”

Given the requirement to attain “practical realization” of the principle of eliminating discrimination against women, Article 2 might reasonably be interpreted as requiring Ireland to take steps to ensure that this continuing increase in the number of females being committed to prison (in contrast with the overall decrease in the number of males being committed since 2011) is properly dealt with and addressed.

IPRT suggests that Ireland be asked:

- (i) what steps are being taken and what resources made available towards full implementation of the *Joint Probation Service – Irish Prison Service Strategy 2014 – 2016: An Effective Response to Women Who Offend?*
- (ii) what steps are being taken and what resources made available to implement the recommendations of the *Report of the Strategic Review Group on Penal Policy* as they relate to female offenders (Chapter 6)?

Issue 3: Over-use of remand for women – use of prison as respite

The Strategic Review Group on Penal Policy noted a “higher use of remand in the case of female offenders in comparison to male offenders”²⁰. In 2013 the daily average number of prisoners in custody indicates that 13% of the male prison population were in custody on remand compared to 20% of the female prison population²¹. The Strategic Review Group on Penal Policy also observed (only in respect of women) –

“Anecdotally, there is some sense that some female offenders may prefer their committal to other forms of community sanction, viewing it as respite from an otherwise chaotic lifestyle. For some offenders imprisonment can be seen as an opportunity to avail of a range of supports which they have difficulty obtaining in the community”.

²⁰ Report of Strategic Review Group on Penal Policy, July 2014, page 65 fn 42

²¹ Irish Prison Service Annual Report 2013

IPRT recommends that Ireland be asked

- (i) if it will conduct a review of the use of pre-trial detention of females in order to determine the reasons for the high level of female offenders subjected to committal remand**
- (ii) to develop bail services and supports to reduce the numbers of women offenders breaching (or being likely to breach) bail conditions**

Issue 4: Impact on Conditions and Regimes

While the rest of the Irish prison estate (i.e. the male prisons) has seen some drop in the levels of overcrowding in the last number of years, this disproportionate increase in the female prison population has resulted in persistent overcrowding in places where females are detained. In his 2013/2014 Annual Report, the Inspector of Prisons noted that overcrowding at the Dóchas Centre was “*a matter of serious concern*”²². In a separate report he commented that the centre “*has consistently operated way in excess of its maximum capacity*”²³.

While the Dóchas Centre has generally been operating at capacity during the first months of 2015 (which is welcome) overcrowding persists as a feature at Limerick’s female prison with doubling up taking place in up to 10 of the 24 cells. As of today’s date (Tuesday 6th October 2015) there are 30 women in Limerick prison²⁴, despite the Inspector of Prisons stating that no more than 24 women should be held there, advising that “*none of the cells are of sufficient size to accommodate two prisoners*”.²⁵ Concern has also been raised over the lack of activities available to women in Limerick prison as a result of overcrowding.²⁶

Some other consequences in relation to overcrowding where it exists can include women doubling up in their rooms; services and regimes not running adequately; women accommodated in recreation rooms having no privacy and tension throughout the facility.²⁷ Female prisoners recently surveyed also felt that in respect of access to addiction services and supports, peer-led counselling services were preferable and that:

“there should be more alcoholics anonymous and narcotics anonymous meetings”

IPRT recommends that Ireland be asked

- (i) To progress the establishment of a female open prison as recommended by the *Strategic Review Group on Penal Policy* and Rule 45 of the *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders [Bangkok Rules]***

²² Judge Michael Reilly Inspector of Prisons, Office of the Inspector of Prisons Annual Report 2013/2014, 26th August 2014, pg 16.

²³ Judge Michael Reilly Inspector of Prisons, Interim report on the Dóchas Centre by the Inspector of Prisons Judge Michael Reilly October 2013, 10th October 2013, pg 9.

²⁴ Prisoner Population on Tuesday 6th October 2015, available at: http://www.irishprisons.ie/images/dailynumbers/06_october_2015.pdf

²⁵ Inspector of Prisons (2010), *Irish Prison Population – an examination of duties and obligations owed to prisoners*, p. 59, paragraph 11.21.

²⁶ Limerick Prison Visiting Committee (2013), *Annual report 2012*.

²⁷ Ibid

- (ii) **how and when it intends to introduce and utilize options such as home leave, halfway houses and community-based programmes and services, gender-specific community sanctions, diversion programmes and holistic support services in the community in order to reduce the number of women offenders committed to prison, and to ease the transition of the small number of women for whom prison is the only appropriate response from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.**

Issue 5: Traveller Women in Prison

Traveller²⁸ women are amongst the most discriminated groups in Irish society, encountering discrimination at multiple levels; as women, as Travellers and as Traveller women. The All-Ireland Traveller Health Study²⁹ indicates that Traveller women face a risk of imprisonment as much as 18 to 22 times higher than that of the general population. It is recognised that there is a disproportionate number of Travellers within Irish prisons – although Travellers only account for 0.6% of the overall population in the Republic of Ireland they account for 22% of the female prison population and 15% of the male prison population³⁰.

IPRT recommends that Ireland be asked to clarify what progress the Irish Prison Service has made towards introducing equality policy for all minority groups in prison, including Traveller women to ensure that Traveller women have equal and culturally appropriate access to education and supports while in prison, including literacy education as well as equitable access to relevant supports for Travellers on leaving prison and returning to their communities.

Issue 6: Position of Pregnant Women and Access to Reproductive Health Services

The World Health Organization has stated that “*pregnant women should not be imprisoned except for absolutely compelling reasons*”^[1]; IPRT fully endorses this recommendation.

Ireland has restrictive abortion laws which apply to all women: abortion is only available in limited circumstances, where doctors certify that there is a real and substantial risk to the woman’s life from the pregnancy which can only be averted by a termination and where the foetus is not viable.^[2] The CEDAW Committee expressed concerns about a similarly

²⁸ 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>

²⁹ AITHS, 2010

³⁰ Irish Prison Service

^[1] World Health Organization (2009), *Women’s health in prison: Correcting gender inequity in prison health*, WHO, Geneva, pg 31.

^[2] There are different requirements as to how many doctors must certify that this risk, depending on whether the situation is an emergency one, and whether the risk comes from a physical illness or a risk of physical illness. See the *Protection of Life During Pregnancy Act 2013*, ss7,8,9.

restrictive regime that was in place in 2005.^[3] It is currently not clear what arrangements are in place in respect to access to all reproductive medical services for women in prison and whether these are in line with CEDAW Article 12^[4] Bangkok 25(2) and 39 but it can be assumed that pregnant prisoners are unable to access abortion unless they come within the narrow definition above. Unlike other groups of women who fall outside of this narrow definition and wish to obtain an abortion, female prisoners cannot travel abroad to access abortion services. As the CEDAW Committee noted in *LC v Peru*, access to abortion services should not be impeded on the grounds of social status.^[5]

IPRT recommends that Ireland be asked to confirm that the State will take the necessary measures to ensure the protection and exercise of the protection of established rights by female prisoners.

Issue 7: Position of Mothers/Contact with Family

Many female prisoners are mothers of children. In Ireland, no statistics are available on the number of children whose mothers are in prison.³¹ However, according to a UK study from 2002, 66% of women in prisons were mothers and one-third were the sole carers of children prior to imprisonment.³² Further research showed that only 5% of children were cared for in their home after their mother was sent to prison (with the large proportion being placed in care), whereas most children continue to be cared for at home when a father is imprisoned.³³ In the Irish context, research has shown that separation of a child from their imprisoned parent can have a significant impact on the child concerned, including a breakdown in relationships between the child and parent.³⁴ It should be noted that in relation to the upbringing and development of children, the Convention states that “*the interest of the children is the primordial consideration in all cases*”.³⁵

Under the Prison Rules, a child can be admitted to the prison to remain with the mother up until 12 months of age. Mothers with babies can be accommodated at the Dóchas Centre in Dublin³⁶ (the centre can take up to four babies); however, no mother and baby unit is available at Limerick Female Prison. The Visiting Committee has observed that

“the imprisonment of mothers with young babies is never ideal and 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

^[3] CEDAW Concluding Observations: Ireland, para 39 U.N. Doc. CEDAW/C/IRL/4-5/CO (2005).

^[4] Article 12 of CEDAW provides that “(...) States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary (...)”.

^[5] *L.C. v Peru*, CEDAW Committee, Commc’n No 22/2009.

³¹ IPRT (2012), *‘Picking up the pieces’: The rights and needs of children and families affected by imprisonment*, IPRT, Dublin, p. 36. See also Quinlan, C (2011), *Inside: Women in prison in Ireland, past and present*, Irish Academic Press, Sallins.

³² Social Inclusion Unit (2002), *Reducing re-offending by ex-prisoners*, Social Exclusion Unit, London.

³³ Cited in Jewkes, Y (ed.) (2007), *Handbook on prisons*, William Publishing, Devon, p. 256.

³⁴ IPRT (2012), *‘Picking up the pieces’: The rights and needs of children affected by imprisonment*, IPRT, Dublin.

³⁵ Article 5(b) of the Convention on the Elimination of All Forms of Discrimination against Women.

³⁶ The 2012 annual report of the Dóchas Visiting Committee noted, for instance, that there were two babies with their mothers in the Centre, both on a shared care basis, who spent time each week with their mother and in the community with their partners.

price to pay. It can result in very far-reaching and negative consequences for a family."

In the context of women in detention, Article 12 can reasonably be interpreted as meaning that such women should have appropriate access to specific measures and provision in order to aid them and their children before, during and after pregnancy. In relation to the "post-natal period", such measures include the facilitating of women who have been convicted of an offence/s to develop and maintain positive relationships with their children. As one female prisoner said on consultation:

"show more compassion to mothers....better family friendly visits and longer visits for our kids"

IPRT recommends that Ireland be asked

- (i) to ensure that, where appropriate, contact between female prisoners and their children should be facilitated and encouraged as much as possible**
- (ii) When a Mother and Baby Unit will be introduced at Limerick Prison to ensure the health, well-being and safety of imprisoned mothers and their babies in line with international best practice and domestic child protection rules.**

Issue 8: Supports on Release

IPRT conducted research on reintegration of prisoners in 2010³⁷. That report found patchy provision of after-care services to prisoners and a lack of a national framework; a 'post-code lottery' for services sees most concentrated around cities and larger towns. Access to services in individual prisons is dependent on the facility in which a prisoner finds him or herself on sentence; there is no consistency in approach. Our more recent survey of women currently in prison reported that the lack of addiction supports on release meant that most of them leave with addiction issues and quickly "*hook up again with a pal or partner and get back into their drinking/drug of choice*". Again, the issue of homelessness was echoed by one woman prisoner who said:

"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."

Ireland is also the only country in Europe which has failed to introduce legislation that allows for convictions for minor offences to become spent. Disclosure requirements for all past convictions engage the human rights of women because they involve release of sensitive personal information (an aspect of private life) and because disclosure may stigmatise persons and impede access to education, employment, reintegration and rehabilitation.

IPRT recommends that Ireland be asked

³⁷ "It's like stepping on a landmine..." - Reintegration of Prisoners in Ireland, IPRT 2010
<http://www.iprt.ie/contents/1685>

- (i) **When and how does Ireland plan to 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?**
- (ii) **to specify the timeline for the passing of a human rights compliant *Spent Convictions Bill***