



IPRT Submission to the UN Committee against Torture

**Information for List of Issues with regard to the examination of Ireland's Third Report under
the UN Convention Against Torture**

For consideration at the 69th Session of the Committee Against Torture, April-May 2020

27th January 2020

About IPRT

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.

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1.1 Introduction

IPRT welcomes this opportunity to engage with the UN Committee against Torture on the List of Issues prior to State reporting. In this submission, IPRT outlines the progress made by Ireland on the 2017 Concluding Observations and further highlights a number of matters that might merit scrutiny during the next reporting cycle.

IPRT made its most recent Submission to the UN Committee against Torture on Ireland's one year follow-up to its second periodic report under CAT (61st Session),¹ in November 2018. The submission specifically updated the Committee on the developments in respect of the ratification of OPCAT. In September 2019, the European Committee against Torture (CPT) conducted a visit to Ireland. We await the publication of the report on the Committee's findings later in 2020.

1.2 Overarching matters

Positive developments since the Concluding Observations 2017 include:

- There has been a significant reduction in the number of prison committals since 2017,² largely as a result of the commencement of the *Fines (Payment and Recovery) Act 2014*³ in 2016.
- A National Violence Reduction Unit was opened in Midlands Prison in November 2018. This is the first co-led (operations and psychology) unit in the Irish State for prisoners who have a history of violence towards staff and other prisoners.⁴
- Following the death of the Inspector of Prisons in November 2016, a new Inspector of Prisons was appointed in May 2018.⁵

However, a number of principal subjects of concerns and recommendations made by the Committee against Torture have not been addressed:

- **Ireland has failed to ratify the UN Optional Protocol on the Convention against Torture (OPCAT) and establish a national preventive mechanism;**
- **There has been no prison inspection report published by the Office of the Inspector of Prisons since the Committee's Concluding Observations in 2017;**
- **Prisoners in Ireland have no access to an independent complaints appeal mechanism;**
- **People with severe mental illness are detained for long periods in Irish prisons;**
- **Prisoner numbers have increased, which has led to chronic overcrowding in some prisons - in particular, the two women's prisons;**
- **14% of the prison population are held on restricted regimes, locked up for 19 or more hours per day.**⁶

¹ IPRT Submission to the UN Committee against Torture on Ireland's one year follow-up to its second periodic report under CAT (61st Session) 23 November 2018, available at:

https://www.iprt.ie/site/assets/files/6483/iprt_submission_on_state_follow-up_uncat_concluding_observations.pdf

² Merrion Street (2019) *Minister Flanagan welcomes 80% reduction in committals to prison for non-payment of fines*,

https://merrionstreet.ie/en/News-Room/Releases/Minister_Flanagan_welcomes_80_reduction_in_committals_to_prison_for_non-payment_of_fines.html

³ Irish Statute Book, *Fines (Payment and Recovery) Act 2014*,

<http://www.irishstatutebook.ie/eli/2014/act/7/enacted/en/html>

⁴ Department of Justice & Equality, *Minister Flanagan Opens New Violence Reduction Unit in Midlands Prison, Portlaoise and New Extension to the Irish Prison Service Training College*, <http://www.justice.ie/en/JELR/Pages/PR18000350>

⁵ Department of Justice & Equality, *Minister Flanagan congratulates the new Inspector of Prisons, Patricia Gilheaney*, <http://www.justice.ie/en/JELR/Pages/PR18000115>

⁶ Irish Prison Service, *Census of Restricted Regimes April 2019 – Report*, <https://www.irishprisons.ie/information-centre/statistics-information/census-reports/>

1.3 Progress on Concluding Observations 2017

Article 2, 11 & 16

(a.) Independent Monitoring of Places of Deprivation and the Optional Protocol

One of the principal subjects of concern and recommendations by the UN Committee against Torture to the Irish State (2017) was:

8. (a.) Immediately ratify the Optional Protocol and establish a national preventive mechanism, ensuring that this body has access to all places of deprivation of liberty in all settings;

Current Context: Ireland has failed to ratify OPCAT. A national preventive mechanism has not been established.

Suggested Inquiries:

- The Committee may wish to ask why the Irish Government has not ratified the OPCAT; request a clear timetable for the ratification of OPCAT; and ask for progress on establishing its national preventive mechanism.

A second related Concluding Observation made by the Committee (2017) is:

8. (b) Ensure that existing bodies which currently monitor places of detention as well as civil society organizations are allowed to make repeated and unannounced visits to all places of deprivation of liberty, publish reports and have the State party act on their recommendations.

Current Context: The Office of the Inspector of Prisons⁷ is able to make repeated and unannounced visits to prisons. However, there has been no inspection report of a closed prison published since September 2014. In July 2018, the Inspector of Prisons commissioned an external review of its operating structures and resources.⁸ The external review was submitted to the Minister for Justice and Equality on 6 December 2018.⁹ The Review found that the current inspection regime within the Office of Inspector of Prisons is *'not fit for purpose.'*¹⁰

Under current legislation in Ireland, the Inspector of Prison cannot publish reports but must submit reports to the Minister for Justice and Equality who decides when to publish the reports; the Minister may redact the reports, although in practice this has not happened.¹¹ However, there is a significant time delay in the publication of reports on investigations into deaths in prison custody.¹²

⁷ Office of the Inspector of Prisons, <http://www.inspectorofprisons.gov.ie/>

⁸ Office of the Inspector of Prisons (2019) *Annual Report 2018*, <http://www.justice.ie/en/JELR/inspector-of-prisons-annual-report-2018.pdf/Files/inspector-of-prisons-annual-report-2018.pdf>

⁹ Office of the Inspector of Prisons (2019) *Annual Report 2018*, <http://www.justice.ie/en/JELR/inspector-of-prisons-annual-report-2018.pdf/Files/inspector-of-prisons-annual-report-2018.pdf>

¹⁰ Office of the Inspector of Prisons (2019) *Annual Report 2018*, p.7, <http://www.justice.ie/en/JELR/inspector-of-prisons-annual-report-2018.pdf/Files/inspector-of-prisons-annual-report-2018.pdf>

¹¹ See Section 31 (3) of the Prisons Act 2007

<http://www.irishstatutebook.ie/eli/2007/act/10/section/31/enacted/en/html#sec31>

¹² For examples, see Department of Justice and Equality website, 'Publications' section, <http://www.justice.ie/>

A recent welcome development is the publication of Irish Prison Service Action Plan reports in response to recommendations made by the Inspector of Prisons in death in custody reports.¹³

Suggested Inquiries:

- The Committee may wish to enquire why there has been no publication of any closed prison inspection reports since September 2014; and whether the Office of the Inspector of Prisons has adequate resources to undertake and complete prompt investigations into deaths occurring in prison custody.
- The Committee may also wish to ask whether the funding ring-fenced for the Office of the Inspector of Prisons in 2020 will be sufficient to undertake a programme of inspections, alongside its investigations into deaths in custody.

(b) Fundamental Legal Safeguards

A principal area of concern and recommendation made by the Committee against Torture in 2017 focused on fundamental safeguards, including:

10 (a.) Expedite the drafting of the Inspection of Places of Detention Bill

Current Context: The Department of Justice and Equality engaged in a consultation with relevant stakeholders, which ended in April 2018.¹⁴ Following consideration of the responses, the draft scheme of the *Inspection of Places of Detention Bill* was expected to be finalised by Autumn 2018 and brought to Government before end 2018. This did not happen. In 2019, the State again outlined that the Bill was expected to be finalised for formal drafting.¹⁵ IPRT is not aware of any update on progress since then.

Suggested Inquiries:

- The Committee may wish to request the current status and timeline of the *Inspection of Places of Detention Bill*.

Article 10

(a) Training

Concluding Observations made by the Committee in relation to training of prison staff included:

14. (a) Make training on the provisions of the Convention and the absolute prohibition of torture [...]
(b.) Provide mandatory training on gender-based and domestic violence for police and

¹³ See for example, *Irish Prison Service Action Plan related to the death of Mr. A 2018* http://www.justice.ie/en/JELR/Irish_Prison_Service_Action_Plan_related_to_the_Death_of_Mr_A_2018.pdf/Files/Irish_Prison_Service_Action_Plan_related_to_the_Death_of_Mr_A_2018.pdf and *Irish Prison Service Action Plan related to the death of Mr. N 2018* http://www.justice.ie/en/JELR/Irish_Prison_Service_Action_Plan_related_to_the_Death_of_Mr_N_2018.pdf/Files/Irish_Prison_Service_Action_Plan_related_to_the_Death_of_Mr_N_2018.pdf

¹⁴ Houses of the Oireachtas, *UN Conventions, Thursday 5th July 2018*, <https://www.oireachtas.ie/en/debates/question/2018-07-05/59/>

¹⁵ Kildare Street, Seanad Debates, 9th April 2019, *UN Conventions Ratification*, <https://www.kildarestreet.com/sendebates/?id=2019-04-09a.15>

other law enforcement officials

(c.) Include information about the Convention and the absolute prohibition of torture in relevant training materials for law enforcement and other public officials;

(e) Systematically collect information on the training of public officials and law enforcement personnel and develop and implement specific methodologies to assess its effectiveness and impact on the reduction of the incidence of torture.

Current Context:

The Irish Prison Service informs IPRT that Continuous Professional Development (CPD) training covers the UN Treaty frameworks under a module entitled *'Human Rights in a Custodial Environment'*.¹⁶ However, information provided by the Irish Prison Service suggests that there is currently no training in gender-based violence for staff.¹⁷ The most recently published Dóchas Centre (female prison) Visiting Committee report for 2017 (published only in 2019), highlighted concerns about inappropriate relationships between prison officers and female prisoners.¹⁸

The Irish Prison Service has commenced publishing data on restraint interventions.¹⁹

Suggested Inquiries:

- The Committee may wish to request information on the provision of mandatory training in gender-based and domestic violence for prison staff.
- It may also wish to seek more detail on the definition and recording of 'restraint interventions' by the Irish Prison Service and how the Service is using this information to reduce incidences of torture.

Articles 11 & 16

(a) Conditions of Detention

Overcrowding

16. (a) Continue to strengthen the measures aimed at further decreasing the number of persons in the prison system and to reduce overcrowding with a view to bringing conditions of detention into line with the international standards enshrined in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);

(b) Continue efforts aimed at reducing overcrowding and improving material conditions in all places where women are detained, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

¹⁶ For more information, see Standard 29 of IPRT's (2019) *Progress in the Penal System: A Framework for Penal Reform*, <https://pips.iprt.ie/site/assets/files/Progress-in-the-Penal-System-2019.pdf>

¹⁷ Ibid.

¹⁸ Department of Justice and Equality, *Dóchas Centre Visiting Committee Annual Report 2017*, available at http://www.justice.ie/en/JELR/Pages/Prison_Visiting_Committee_Annual_Reports_2017

¹⁹ Irish Prison Service, *Assault figures*, see *Assault Tables*, <https://www.irishprisons.ie/information-centre/statistics-information/assault-figures/>

Current Context:

At the time of Ireland's periodic review in 2017, the daily average number of persons in custody was 3,680. There was an almost 6% increase on the daily average number of persons in custody in 2018 at 3,893,²⁰ and prisoner numbers have been regularly above 4,000 in 2018 and 2019.²¹

The biggest increase in committals to prison under sentence in 2018 was for those serving sentences of less than three months (34% increase), followed by those serving sentences of less than six months (15.1% increase) and those serving sentences of between six and 12 months, which increased by 12.6%.²² This has occurred despite legislation²³ enacted in 2011 which requires the judiciary to first consider community service as an alternative to imprisonment.

The Minister for Justice and Equality acknowledged the reversal in trends:

"I regret the reversal of the trend towards lower prisoner numbers, however, the Deputy will appreciate that I must be respectful of the independence of the judiciary and their total discretion in deciding whether or not to imprison persons appearing before the Courts."²⁴

In 2018 and 2019, overcrowding in the Irish prison system deteriorated, with around 40 prisoners sleeping on mattresses on floors in five closed prisons.²⁵ The Inspector of Prisons highlighted this issue in January 2020.²⁶ At least five Irish prisons consistently exceed the Inspector of Prisons' recommended maximum capacity; in particular, the two women's prisons.²⁷ Over one-third of women serving custodial sentences are serving sentences of less than 12 months.²⁸

Suggested Inquiries:

- The Committee may wish to request information on measures the State is taking to reduce the prison population numbers to within safe custody limits.
- The Committee may also wish to enquire about the reasons for the sharp increase in people serving short custodial sentences of less than 12 months, in particular women.

²⁰ See Irish Prison Service, *Annual Reports*, <https://www.irishprisons.ie/information-centre/publications/annual-reports/>

²¹ See Irish Prison Service, *Daily Prisoner Population, 2018 Prison Populations*, <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/> and *2019 Prison Populations*, <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/>

²² Irish Prison Service, *Annual Report 2018*, <https://www.irishprisons.ie/information-centre/publications/annual-reports/>

²³ Irish Statute Book, *Criminal Justice (Community Service) Amendment Act 2011*, <http://www.irishstatutebook.ie/eli/2011/act/24/enacted/en/html>

²⁴ Department of Justice and Equality, *Parliamentary Question 194, 14th May 2019*, <http://www.justice.ie/en/JELR/Pages/PQ-14-05-2019-194>

²⁵ See Houses of the Oireachtas (2019), *'Dáil Debates, Prisoner data, 7 February 2019'*, <https://www.oireachtas.ie/en/debates/question/2019-02-07/135/> and Houses of the Oireachtas, *Prisoner Data, 13 June 2019*, <https://www.oireachtas.ie/en/debates/question/2019-06-13/99/>

²⁶ IPRT report launch of *'Making Rights Real' for People with Disabilities in Prison* on the 15th of January 2020. The current Inspector of Prisons, Patricia Gilheaney highlighted the issue of prisoners sleeping on mattresses on floors at the forum.

²⁷ See Irish Prison Service, *Daily Prisoner Population*, <https://www.irishprisons.ie/information-centre/statistics-information/2015-daily-prisoner-population/>

²⁸ IPS, *'Monthly information note (see December 2018)*, <https://www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/>.

Alternatives to Custody

16. (c) Consider increasing the use of non-custodial measures and alternatives to detention, in keeping with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

Current Context: In 2018 the number of Community Service Orders handed down by the Courts was 2,499, compared with 2,215 in 2017²⁹. However, despite this increase, the numbers are still lower than 2011 peaks. The number of Community Service Orders served by women increased from 218 in 2017 to 291 in 2018.

The introduction of structured early release programmes, in particular the Community Return Programme in 2011, has been successful. However, declining numbers have been accessing this programme, from 462 in 2014 to 218 in 2018.³⁰

Suggested Inquiries:

- The Committee may wish to ask reasons why the number of people accessing the Community Return Programme has declined, and measures being taken to address this.

Remand Detention

16 (d) Ensure the separation of remand prisoners from those who have been sentenced and provide the Committee with information on the number of remand prisoners and how long they stay on remand;

Current Context: The number of people detained on remand in custody increased from an average of 547 in December 2016 to 680 in December 2018.³¹ In July 2019, 206 out of 748 remand prisoners were sharing a cell with a sentenced prisoner.³²

The increasing number of people detained on remand in prison may be linked with wider social issues such as homelessness. The number of people who declared they were homeless (of 'no fixed abode') on committal to prison increased from 265 in 2014 to 502 in 2018.³³ In December 2019, a case before the Courts involved a brain-damaged homeless man held on remand for over a year in a High Support Unit in Mountjoy Prison, following the Health Service Executive's cancellation of care plan in the community due to resource issues.³⁴

²⁹ The Probation Service, *Annual Reports*, <http://www.pprobation.ie/EN/PB/sectionpage?readform>

³⁰ The Probation Service, *Annual Reports*, <http://www.pprobation.ie/EN/PB/sectionpage?readform>

³¹ Irish Prison Service, *Monthly Information Note*, <https://www.irishprisons.ie/information-centre/statistics-information/monthly-information-note/>

³² For more information on remand, see standard 10 of the IPRT's (2019) *Progress in the Penal System, A Framework for Penal Reform*, <https://pips.iprt.ie/progress-in-the-penal-system-pips/part-2-measuring-progress-against-the-standards/b-prison-conditions/10-separation-of-remand-from-sentenced-prisoners/>

³³ Houses of the Oireachtas, *Prisoner Data, 17th December 2019*, https://www.oireachtas.ie/en/debates/question/2019-12-17/256/#pg_256

³⁴ Carolan, M. Feet of brain damaged homeless man not washed in year he was kept in Mountjoy prison, *The Irish Times*, <https://www.irishtimes.com/news/crime-and-law/courts/high-court/feet-of-brain-damaged-homeless-man-not-washed-in-year-he-was-kept-in-mountjoy-1.4106036>

Suggested Inquiries:

- The Committee may wish to seek an update on implementation of its 2017 recommendation regarding the regular publication of remand data, in particular the lengths of time people are held on remand.
- The Committee might also ask whether the building of new Limerick prison facilities will facilitate the separation of female remand prisoners from female sentenced prisoners.

Reconstruction and Refurbishments

16 (e.) Implement the Irish Prison Service Strategic Plan 2016-2018, including for the refurbishment of existing facilities and the construction of new ones; modernize Limerick prison and “Block E” of Portlaoise prison to eliminate the slopping out system completely; and improve in-cell sanitation in all facilities that require it and ensure privacy in the use of toilet facilities and their separation from places where prisoners take meals;

Current Context: The construction of new Limerick prison facilities is expected to be completed in 2021.³⁵ There is no update available on refurbishment of Block E of Portlaoise prison. In October 2019, 58 prisoners were ‘slopping out’, and 46% of the prison population were toileting in the presence of others.³⁶

There are plans to refurbish and re-open the former Training Unit (semi-open prison) on Mountjoy Campus as a closed prison for male prisoners aged over 55.

Suggested Inquiries:

- The Committee may wish to ask the State whether it plans to work towards the separation of toilet facilities from where prisoners eat their meals.
- The Committee may also wish to enquire whether the proposed new prison facility for men aged over 55 will include in-cell toilets.

Recruitment of Personnel

16.(f) Take urgent measures to increase the ratio of guards to prisoners, hire additional medical personnel, including psychiatric personnel and psychologists, and enable the referral of inmates requiring specialized medical care to outside medical facilities without delays due to administrative reasons and lack of escorts from among prison staff;

Current Context: There continues to be issues with staffing ratios, despite Irish Prison Service prison officer recruitment campaigns. The Inspector of Prisons has highlighted the cancellation of appointments for prisoners due to the unavailability of prison staff to escort them. This issue also affected prisoners’ access to education and workshops.³⁷

³⁵ Department of Justice and Equality, *PQ 343*, 2nd July 2019, <http://www.justice.ie/en/JELR/Pages/PQ-02-07-2019-343>

³⁶ Irish Prison Service, *Census of Cell Occupancy and In Cell Sanitation October 2019-Report*, <https://www.irishprisons.ie/information-centre/statistics-information/census-reports/>

³⁷ Office of the Inspector of Prisons, *Annual Report 2018*, <http://www.justice.ie/en/JELR/inspector-of-prisons-annual-report-2018.pdf/Files/inspector-of-prisons-annual-report-2018.pdf>

There continues to be a significant number of people in prison with severe mental illness. In June 2019, there were 614 people in prison on waiting lists for Prison Psychology Services.³⁸ Around 300 people in prison have a severe mental illness.³⁹ On average, there are 20-30 people with a severe mental illness in prison awaiting transfer to the Central Mental Hospital (CMH). The average waiting time for transfer from prison to Central Mental Hospital is 120.86 days, with the longest waiting time at 504 days.⁴⁰

Suggested Inquiries:

- The Committee may wish to enquire what steps the State has taken to increase the availability of psychiatric care for acute mentally ill prisoners.
- The Committee may also wish to enquire about impact on access to prison schools and workshops due to staffing issues.

Solitary Confinement

16 (g) Ensure that solitary confinement remains a measure of last resort, imposed for as short a time as possible, is never applied to juveniles, is under strict supervision and judicial review with clear and specific criteria for its use, and that prolonged and consecutive disciplinary sanctions of solitary confinement are strictly prohibited;

Current Context: In October 2019, there were 50 people in solitary confinement.⁴¹ The practice of prolonged solitary confinement persists in Irish prisons. However, information on the lengths of time people are held in solitary confinement is not made public.

Suggested Inquiries:

- The Committee may wish to ask the State for information on the number of prisoners in prolonged solitary confinement (over 15 days); the average duration; and the longest duration a prisoner has been held in solitary confinement in 2019.
- The Committee may wish to ask what measures are in place to support a prisoner returning from a period in solitary confinement back into the general prison population and the community.
- The Committee may also wish to ask whether the States plans to introduce a legal framework governing the use of single separation for children in detention.

³⁸ Kildare Street, *Written Answers Thursday 13th of June 2019, Department of Justice and Equality, Prison Medical Services*, <https://www.kildarestreet.com/wrans/?id=2019-06-13a.296>

³⁹ This information is based on figures provided by the Director of the Central Mental Hospital, see *The Prison Trap*, *The Irish Times*, <https://www.irishtimes.com/news/social-affairs/the-prison-trap>

⁴⁰ Follow-up correspondence received from the Health Service Executive to Deputy James Browne's office in relation to Parliamentary Question 19269. See Houses of the Oireachtas, *Prisoner Transfers*, 8th May 2019, <https://www.oireachtas.ie/en/debates/question/2019-05-08/597/>

⁴¹ Irish Prison Service, *Census of Restricted Regime Prisoner October 2019*, https://www.irishprisons.ie/wp-content/uploads/documents_pdf/October-2019-Restriction.pdf

Cell Share Risk Assessment

16.(h) Introduce a cell-share risk assessment tool across the prison estate and ensure that prisoners requiring protection are not penalized by their situation and have contact with the outside world, sufficient purposeful activities and out-of-cell exercise and family visits;

Current Context: In November 2019, a man in prison was killed by his cellmate in Cloverhill prison.⁴² Investigations into the circumstances surrounding the individual's death are underway.

Suggested Inquiries:

- The Committee may wish to enquire whether a cell-share risk assessment tool is being used across all prisons.
- The Committee may also wish to request information from the State on out-of-cell time for prisoners on protection, and the level of access they have to contact with the outside world and purposeful activities.

Prison Healthcare Review

16. (i) Urgently undertake an independent, fundamental review of the entire prison health-care system, in keeping with the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

Current Context: In July 2018, the Irish Prison Service appointed an Executive Clinical Lead of healthcare. A health needs assessment of the prison service is underway,⁴³ and is expected to be completed by end 2020.

Suggested Inquiries:

- The Committee may wish to enquire whether the State plans to introduce regular independent inspections of prison healthcare.

Prison Transportation

16 (j) Ensure that prisoners who are transferred between facilities are not injured during transportation and ensure that handcuffing is used only as an exceptional measure, after appropriate risk assessment;

⁴² Lally, C. Man strangled in Cloverhill Prison known as Mark Lawlor, *The Irish Times*, <https://www.irishtimes.com/news/crime-and-law/man-strangled-in-cloverhill-prison-named-as-mark-lawlor-37-1.4093509>

⁴³ Kildare Street, Thursday 13th June 2019, *Written Answers, Department of Justice and Equality, Prison Medical Service*, <https://www.kildarestreet.com/wrans/?id=2019-06-13a.296>

Current Context: A review of the Prisoner Escort Service has been completed by the Department of Justice and Equality.⁴⁴ The review includes proposals of a detailed framework governing the performance of prisoner escort services, which would allow greater accountability in the monitoring of the health and welfare of prisoners while under escort. The review does not consider the need for a ‘handcuffing by exception’ policy.

Suggested Inquiries:

- The Committee may wish to enquire whether an Oversight Group as identified by the Minister for Justice and Equality has been set up to implement the recommendations of the review.
- The Committee may also wish to enquire for details on the current handcuffing policy for prisoner transport in Ireland.

Medical Confidentiality

16 (k) Take the necessary steps to ensure that external medical personnel consulted by prisoners respect the principles of medical confidentiality and human dignity.

Current Context: In research published in January 2020,⁴⁵ prisoners with disabilities raised the issue of medical confidentiality.⁴⁶ Prisoners gave examples of where their disability was disclosed to prison staff without their consent.

Suggested Inquiries:

- The Committee may wish to ask about measures the State will take to ensure privacy, confidentiality and human dignity of cohorts of prisoners needing specific supports, including prisoners with disabilities and foreign nationals.

Articles 11 & 16

Violence in prisons

18. The State party should:

- (a) **Undertake thorough and impartial inquiries into all acts of violence committed in prison facilities and detention centres;**
- (b) **Enhance measures to prevent and reduce inter-prisoner violence by improving prison management and the ratio of staff to prisoners, and strengthen the monitoring and protection of vulnerable prisoners and those presenting disciplinary issues;**
- (c) **Provide training to prison staff and medical personnel on**

⁴⁴ Department of Justice and Equality (2018), Prisoner Escorts in the Criminal Justice System Value for Money and Policy Review, <http://www.justice.ie/en/JELR/VFMPR%20Prisoner%20Escorts%202018.pdf/Files/VFMPR%20Prisoner%20Escorts%202018.pdf>

⁴⁶ Irish Penal Reform Trust (2020) *Making Rights Real for People with Disabilities in Prison*, https://www.iprt.ie/site/assets/files/6611/people_with_disabilities_in_prison.pdf

communication with and managing of inmates, including juveniles, and on detecting signs of vulnerability and disciplinary issues;

(d) Abolish solitary confinement of minors as a disciplinary measure, strengthen existing and develop new educational and rehabilitation programmes aimed at encouraging pro-social behaviour, and improve extra-regime activities for minors;

(e) Ensure that solitary confinement is never applied to persons with a psychosocial disability and ensure that they receive appropriate therapeutic treatment.

Current Context: The Irish Prison Service has commenced annual publication of assault figures across the prison estate.⁴⁷ In November 2018, the National Violence Reduction Unit was opened, the first co-led (operations and psychology) unit in the Irish State for prisoners with a history of violence towards staff and other prisoners.⁴⁸

A number of investigations into deaths in prison custody,⁴⁹ in which vulnerable prisoners have died by suicide, found that prison staff failed to perform checks in compliance with Standard Operating Procedures. The Inspector of Prisons recommended that a 'zero tolerance' approach be taken in cases where there is a failure by prison staff to undertake the required checks, where appropriate disciplinary action must be taken. This recommendation was accepted by the Director General of the Irish Prison Service. A suite of measures in relation to special observations has been communicated across the prison estate.⁵⁰⁵¹

⁴⁷ Irish Prison Service, *Yearly Statistics*, see *Assault figures*, <https://www.irishprisons.ie/information-centre/statistics-information/yearly-statistics/>

⁴⁸ Department of Justice & Equality, *Minister Flanagan Opens New Violence Reduction Unit in Midlands Prison, Portlaoise and New Extension to the Irish Prison Service Training College*, <http://www.justice.ie/en/JELR/Pages/PR18000350>

⁴⁹ See Office of the Inspector of Prisons, *A Report into the circumstances surrounding the death of Prisoner G on 6 May 2017 in Limerick Prison*, (Published 13th June 2019) <http://www.inspectorofprisons.gov.ie/en/IOP/Final%20-%20Report%20into%20the%20Death%20of%20Prisoner%20G-17.pdf/Files/Final%20-%20Report%20into%20the%20Death%20of%20Prisoner%20G-17.pdf> See also the findings from the inquest reported in the

media: Raleigh, D. 'Systems failure contributed to death of young man in Limerick Prison Inquest Hears', *The Irish Times*, (22nd November 2019), <https://www.irishtimes.com/news/crime-and-law/courts/coroner-s-court/systems-failure-contributed-to-death-of-young-man-in-limerick-prison-inquest-hears-1.4092306> Office of the Inspector of Prisons, *A Report into the circumstances surrounding the death of Prisoner C on 29 January 2018 in Cork Prison*, (Published 27th November 2018)

http://www.justice.ie/en/JELR/OiC_Report_%20into_%20the_circumstances_surrounding_the_death_of%20Prisoner_C_2018.pdf/Files/OiC_Report_%20into_%20the_circumstances_surrounding_the_death_of%20Prisoner_C_2018.pdf, see also findings from inquest reported in the media: English E. 'Review urged after prisoner took his own life within four hours after being committed to Cork prison', *The Irish Examiner* (19th July 2019).

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⁵⁰ Office of the Inspector of Prisons, *A report by the Office of the Inspector of Prisons into the circumstances surrounding the death of Mr. G on 6th May 2017 in Limerick Prison*, [http://www.justice.ie/en/JELR/Office%20of%20Inspector%20of%20Prisons%20Report%20into%20circumstances%20surrounding%20the%20death%20of%20Prisoner%20G%20\(2017\).pdf/Files/Office%20of%20Inspector%20of%20Prisons%20Report%20into%20circumstances%20surrounding%20the%20death%20of%20Prisoner%20G%20\(2017\).pdf](http://www.justice.ie/en/JELR/Office%20of%20Inspector%20of%20Prisons%20Report%20into%20circumstances%20surrounding%20the%20death%20of%20Prisoner%20G%20(2017).pdf/Files/Office%20of%20Inspector%20of%20Prisons%20Report%20into%20circumstances%20surrounding%20the%20death%20of%20Prisoner%20G%20(2017).pdf) This report was submitted by the Office of the Inspector of Prisons to the Department of Justice and Equality on the 25th April 2019 and published by the Department on the 13th of June 2019.

⁵¹ Measures taken by the Irish Prison Service are outlined in its *Irish Prison Service Action Plan relating to the Death of Mr.A in 2018*, available at

Recent IPRT research highlights issues such as the inaccessibility of the prison environment for prisoners with disabilities in particular the lack of information and communication and its effects in terms of rights, navigating the prison regime and accessing prison services.⁵² IPRT has recommended that a review of disciplinary sanctions in prison should be carried out in order to ensure that no one is punished for behaviours that relate to their disability.⁵³

In relation to children detention, the latest Inspection report found a reduction in the use of restrictive procedures, including single separation, but noted there is still significant use of restrictive practices in Oberstown Children Detention Campus.⁵⁴ The same report noted significant efforts made to improve the quality and delivery of offending behaviour programmes.

It is unknown how many prisoners held in solitary confinement have a psychosocial disability. IPRT notes that the reporting requirements and safeguards around the use of isolation in psychiatric settings do not apply to prisons.⁵⁵

Suggested Inquiries:

- The Committee may wish to enquire whether prisoners with psychosocial disabilities are being held in solitary confinement conditions in prison.
- In particular, the Committee may wish to enquire how many prisoners awaiting transfer to the Central Mental Hospital are being held in isolation, and for what lengths of time they are held separately.
- The Committee may wish to seek further information on the National Violence Reduction Unit, including: the therapeutic programmes available; the use of batons in the NRVU and other measures, such as the body-worn cameras and barrier-handling; and the procedures in place to safely reintegrate the individual back from the NVRU into the general prison population or upon release to the community

http://www.justice.ie/en/JELR/Pages/Office_of_the_Inspector_of%20Prisons_Death_in_Custody_Investigation_Report-Mr_A_2018

⁵² Irish Penal Reform Trust (2020) *Making Rights Real for People with Disabilities in Prison*,

https://www.iprt.ie/site/assets/files/6611/people_with_disabilities_in_prison.pdf

⁵³ Irish Penal Reform Trust (2020) *Making Rights Real for People with Disabilities in Prison*,

https://www.iprt.ie/site/assets/files/6611/people_with_disabilities_in_prison.pdf

⁵⁴ Health Information and Quality Authority, *Report of Oberstown Children Detention Campus, 16th July – 18th July 2019*,

<https://www.higa.ie/system/files?file=inspectionreports/4225-OberstownChildrenDetentionCampus-16-July-2019.pdf>

⁵⁵ Mental Health Commission, *Annual Report 2018 including report of the Inspector of Mental Health Services*, p.67

https://www.mhcirl.ie/File/2018_AR_Incl_OIMS.pdf

Articles 2, 12, 13 & 16

Complaints in the Prison System

22. (a) Consider establishing a completely independent mechanism for the consideration of prisoner complaints as well as a new individual complaints procedure, in the light of the shortcomings cited above;
- (b) Provide for an independent appeal procedure outside of the prison system;
- (c) Introduce greater involvement and oversight by an independent body;
- (d) Inform the Committee about sanctions or punishments for torture or ill-treatment applied against any of those responsible, based on the complaints that were upheld.

Current Context: The Minister for Justice and Equality stated that the Irish Prison Service would introduce a new individual complaints procedure by quarter 3 of 2019.⁵⁶

Prisoners still have no access to an independent appeal procedure. It has been agreed that the remit of the Office of the Ombudsman will be extended to consider complaints, after the new internal complaints procedure has been embedded⁵⁷ and subject to approval by the Department of Public Expenditure and Reform.⁵⁸

Suggested Inquiries:

- The Committee may wish to seek an update on implementation of the new internal complaints procedure by the Irish Prison Service.
- The Committee may also wish to request a definitive timeline for access to the Office of the Ombudsman to be extended to prisoners.

Conclusion

For further information, please view IPRT's (2019) *Progress in the Penal System (PIPS): A Framework for Penal Reform*: <https://pips.iprt.ie/>

IPRT is happy to be contacted for any further information or enquiries with our details on the cover page of our submission.

⁵⁶ Department of Justice & Equality, *Parliamentary Questions, PQ 148*, 30th January 2019, <http://www.justice.ie/en/JELR/Pages/PQ-30-01-2019-148>

⁵⁷ Department of Justice & Equality, *Parliamentary Questions, PQ 148*, 30th January 2019, <http://www.justice.ie/en/JELR/Pages/PQ-30-01-2019-148>

⁵⁸ Office of the Ombudsman *Annual Report 2018 delivering outcomes*, pp.16-17, <https://www.ombudsman.ie/publications/annual-reports/Ombudsman-AR-2018-ENG-Final-for-Web.pdf>