

2013-12

Women in the Criminal Justice System in Ireland

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Recommended Citation

Rogan, M. Women in the Criminal Justice System in Ireland. Irish Penal Reform Trust, Seminar on Women in the Criminal Justice System, Dec. 2013.

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Women in the criminal justice system.

Dr. Mary Rogan

Minister Lynch, distinguished guests, ladies and gentlemen.

On behalf of the Board and staff of the Irish Penal Reform Trust I would like to thank you all for coming to the launch of an extremely important and timely piece of work on women in the criminal justice system. Timely, because IPRT is concerned at the rising number of women going to prison and the conditions for women in prisons, but also because there is an opportunity to re-think our entire approach to the treatment of women who come into conflict with the criminal law. In that regard may I say at the outset that it is particularly encouraging that Minister Lynch is present with us to launch the report. For too long in Ireland we have approached crime and prison issues exclusively by reference to what the criminal justice agencies can do. A truly effective, and indeed more just, approach must involve those agencies and bodies which can have an enormous, perhaps decisive role in preventing and reducing offending and reoffending, as well as the marginalisation which leads to much of both. IPRT has long advocated for the creation of crime and justice policy which

involves the Department of Health, the Department of Education, as well as the Department of Justice. This report shows the need for such engagement very clearly indeed and we look forward, Minister Lynch, to engaging with you and your Departments on these issues in the future. In that regard may I also say it is very welcome to have representatives from both the Probation Service and the Irish Prison Service present with us today.

I would like to introduce some of the main elements of this position paper on women in the criminal justice system.

This paper is published at a time when the number of women being sent to prison in Ireland has been increasing, leading to a deterioration in conditions, and also requiring a rethink of policy, which, we argue, should be centred around a non-custodial approach. The title of the paper: rethinking the pattern, is especially apt to shape our discussion of how we can work to alter policy on the imprisonment of women.

Until the last year or so, the numbers of people sent to prison in Ireland had been increasing year on year. The rate at which women

were being sent to prison outpaced that of men, however, during the 2000s. The number of women committed to prison more than doubled between the years 2001 and 2011, while the number of men increased by one third. 15% of all those sent to prison are women, a proportion which has increased over that period also. The proportion of women in prison as a proportion of all women in Ireland has also increased. In terms of the average daily prison population of women, this figure has increased from 124 in 2008 to over 160 today. About 2000 women were committed to prison under a sentence in 2012, while that figure was about 150 in 1990.

The offence categories for women sent to prison recording some of the biggest increases between 2010 and 2013 were for road and traffic offences, public order and similar offences. Thefts have recorded a decrease. Most women, as indeed most men, receive sentences of fewer than three months. The vast, vast majority of women committed to prison are sent there for non-violent offences against property. In 2012, of the 2,071 committals to prison of women, 1,687 were for court-ordered fines. That has increased from just 339 in 2008. Last year the number of men committed to prison under a sentence fell back slightly from the year before, but the

number of women continued to increase. There has also been an increase in the numbers of women held in prison on remand.

The reasons behind these changes are difficult to understand, particularly because of the challenges posed in interpreting our criminal justice data, which is something to which I will return.

We can speak more concretely about the consequences, which have been felt in increased overcrowding in the Dóchas centre, which is now regularly operating well over its original capacity; this is so even though additional accommodation has been added. There are also concerns about the fact that the provision of services has not kept up with the increase in numbers. In Limerick prison, doubling up is regrettably used in circumstances where the Inspector of Prisons has argued that no cell can accommodate two women. While the immediate pressures on space have led, understandably, to prison expansion, and plans for more, IPRT considers that policy change, advocating the greater use of alternatives, would be a more sustainable solution for all involved, and would negate the need to rely on temporary release. In this regard I note the comments of the Inspector in his interim report on the Dóchas Centre published

yesterday, that the single biggest issue facing the centre was overcrowding, and indeed his suggestion that a dialogue is opened concerning the need to increase the diversity of sentencing options for judges dealing with women.

The need for a more integrated and imaginative policy is clearly evidenced in part 3 of the position paper. It is important to stress that prisoners both male and female often come from positions of particular vulnerability, but some of the research from Ireland and internationally on the complex needs of female offenders is compelling. We see a picture of social disadvantage, physical and sexual abuse.

The evidence from Ireland and abroad does show us that women have higher levels of mental health problems than male prisoners and much higher levels than women in the community. The work of Professor Harry Kennedy and others published in 2005 found that 60% of sentenced female prisoners in Ireland had a lifetime history of mental illness;¹ that 5.4% of female prisoners should be diverted to hospital psychiatric services; and that as many as 32% of females committed to prison presented with mental health issues requiring psychiatric care - of these, 16% suffered from a major depressive disorder. The report also found that 38.7% of female committals had self-harmed in the

¹ Kennedy, H, *et al* (2005) "Mental health in Irish prisoners: psychiatric morbidity in sentenced, remanded and newly committed prisoners" National Forensic Mental Health Service, Dublin.

past. Mairead Seymour and Liza Costello found that in a sample of 50 women prisoners 33% were homeless on committal to prison. There is a very definite picture of multiple disadvantage and social exclusion.

The capacity of the prison service, even with the best of intentions, to deal with such issues is necessarily limited and a much more wide-ranging approach involving all agencies is necessary. The research of Mayock and Sheridan, referred to in this paper, which shows that for homeless women prison can service as a respite from street life, providing a break from the relentless pursuit of funding their addiction and finding a place to stay, must be a finding heard in the Departments of Health and Social Protection.

The effects of imprisonment can also be marginalizing, interrupting family relationships, housing care-giving responsibilities, employment, should there be employment, and also bringing with it the consequences of having a conviction. Some of the profoundest consequences can be on those for whom an imprisoned parent is caring. Women in contact with the criminal justice system continue to be the primary caregivers to their children. I would like to see more statistical information published on a regular basis by the courts and the Irish Prison Service and Probation Service regarding

the profile of women (and men) in custody in order to explore these issues in Ireland.

It may be that our obligations to children now explicitly in the Constitution and under international norms will enhance the requirement that consideration be given by a sentencing judge to the best interests of a child when deciding on a form and length of sentence. The nature of our prison system with two prisons for women one in Limerick and one in Dublin also means that the experience of imprisonment for women and their children outside these cities is exacerbated given the long distances that families are required to travel. A particular concern in this regard is that fact that there is no mother and baby unit for women detained in Limerick prison.

The effects of parental imprisonment on the long term outcomes for children are serious, negative and well documented. Indeed, they are very well drawn in the IPRT position paper on the effects of imprisonment on children.

This position paper also highlights the importance of ensuring

women are assisted to prepare for their release from prison. The research referred to in this report, from both Ireland and internationally, shows that the key concern for women facing release are their partners, children, income, health, substance dependency, and the absence of a stable home. For those women who were not returning to a stable home, they also identified the risk of rape, engaging in drug use and homelessness. The importance of ensuring that the criminal justice agencies work closely with the statutory agencies on the outside to assist in preparations for release which are conducted well in advance of leaving.

The international experience, referred to in this paper, shows an increasing realization that a community-based approach can be more effective and more just for women offenders. These experiences will be detailed by our expert speakers. These experiences tell us that there is a need to ensure that women can access services easily and preferably in one place, in a kind of one-stop-shop approach, and that these services have a multi-disciplinary ethos, involving social workers, health professionals and addictions workers. They also point to the requirement that the policies of non-criminal justice agencies, such as mental health services, should place a greater

emphasis on women offenders. The report shows that there are sound economic arguments for this approach also, showing that investment in community-based alternatives can have very significant pay-offs in terms of reducing the costs of offending and reoffending, and indeed saving society the social and human cost of more victims. The report notes that some efforts are being made in this regard in Ireland with Focus Ireland running an in-reach prison programme in partnership with the Probation Service, the Irish Prison Service, and the HSE. This is currently on a pilot basis in Cloverhill, Cork and Limerick prisons and is presently being evaluated. Supported housing for women leaving prison is also an essential feature to successful reintegration and the Tus Nua project and the work of Christine Littlefield, my fellow IPRT board member, must be mentioned in this regard.

While there is much that has been dismaying about our approach to women offenders over the past decade, we are now seeing a new policy window opening, which presents opportunities to remodel our approach. The joint strategy of the Irish Prison Service and the Probation Service 2013-2015 contains a commitment to develop a strategy to address the specific needs of women offenders. This

includes identifying and diverting women at risk of a custodial sentence, through the use of diversion, community sanctions and supports, strengthening early intervention measures in the community, improving outcomes for women currently in custody and developing a step-down facility for women offenders. In this regard it remains disappointing that there isn't an open facility for women prisoners, who do not all need secure conditions of the kind we currently use. We hope that today's discussion will go a good way to informing the development of new policies and plans.

IPRT's recommendations are clear and based on evidence, which is something we pride ourselves on. It is our view that prison should only ever be used as a last resort for women, and minor, non-violent offences should be dealt with by means of non-custodial sanctions. These should be gender-sensitive, to ensure that women with care-giving responsibilities are not excluded from them. The principle that the best interest of any children of the women involved should be at the forefront of consideration at the time of sentencing. While in prison, steps must be taken to minimize the negative impact of imprisonment on women and their families.

It should be noted that these recommendations are also based on the Bangkok Rules, or UN's Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders which were adopted in December 2010.

Importantly, as well as placing particular obligations on prison authorities with regard to the treatment of women, the Rules also address the use of non-custodial measures for women. They call for the adoption of gender sensitive options for diversionary measures and sentencing alternatives, emphasizing the particular importance of such measures for women at the pre-trial and sentencing stage. Rule 60 calls for appropriate resources to be made available to devise suitable alternatives for women offenders in order to combine non-custodial measures with interventions to address the most common problems leading to women's contact with the criminal justice system including domestic violence, mental disability, trauma and substance abuse as well as unemployment.

As important, in my view, is the section in the Rules on research and planning in the area of offences committed by women. I think this is the area we have probably been most neglectful of in Ireland, and to

our enormous cost. The Rules call for comprehensive research on the factors that lead women into offending, the effect of imprisonment on women and the impact of labeling, as well as the effect of imprisonment on children. This kind of research is essential to inform policy and should be conducted by policy-makers themselves. It is also essential that planned policy changes should be subject to an impact assessment, a bit like environmental impact assessments, on the numbers of women and men who go into prison and the social and economic effects of the change. All policies should be reviewed on this basis on a regular basis to stop the culture of drift in our prison policy and the sense that prison numbers have a life of their own and are beyond our control.

Thanks

Finally, I would like also to say some words of thanks to those involved in the creation of this paper, and to peer organizations working in this field.

The main research for the paper carried out by Christina Quinlan and Jane Mulcahy, IPRT Research and Policy Officer and we thank them. May I also take the opportunity here to thank Jane for all the work

she has done for IPRT over the past three years and to wish her and her family all the best in the future. Keith and their children Aurora and Luke the very best for the future.

The paper was edited by Liza Costello, who has worked with and contributed enormously to IPRT over the past 6 months.

Thanks are also due to those who were consulted on the paper over time. This paper is based on a submission made to the Irish Prison Service and Probation concerning women in prison. Can I particularly thank our colleague organisations in the Women in Prison Reform, and particularly Christine Littlefield and DePaul Ireland,

I will now ask Siobhan to introduce the Minister and our other speakers.

Concluding comments

Minister, we are very grateful to you for launching our paper and for giving generously of your time.

Thank you very sincerely to speakers Prof McIvor, Sarah Anderson, Jean O'Neill. Many thanks indeed to our respondents, Governor Mary O'Connor, Suzanne Vella, and Ailish Glennon.

Thank you Siobhan for acting as chair of today's event.

I must say also say thank you to Dublin City Council for providing us with this space.

We at the Irish penal Reform Trust are strongly committed to working constructively with the Irish Prison Service and the Probation Service, the various Government Departments, as well as our colleague organizations in order to create workable, effective and just mechanisms for reducing the number of women in prison and ensuring that prison conditions are gender sensitive and dignified.

We are also dedicated to supporting and joining with all community and voluntary organisations working with women at risk of coming into contact with CJ system, in particular those who have worked with us on the issue of women in the criminal justice system through the Women in Prison Reform Alliance. I would like to refer to them specifically. They are:

- i. National
Women's Council of Ireland,
- ii. Jesuit
Centre for Faith and Justice,
- iii. Depaul
Ireland,
- iv. Dublin
Rape Crisis Centre,
- v. The
Mercy Justice Office,
- vi. the
Dominican Justice Office and
- vii. Dr
Christina Quinlan

Finally, I must say a word about the Irish Penal Reform Trust. We pride ourselves on the quality of our work on occasions such as this in stimulating debate and discussion about policy. We bring together research and best practice and provide a platform and space for all

stakeholders to work towards solutions to the challenges facing the penal system. We believe that this role we play is essential to improving the penal system – especially at the present moment, where there is a genuine appetite for reform within the main agencies and a common purpose to solve problems in the system.

A challenge for IPRT, is that funding for this type of work – research, advocacy and campaigning – is reducing in Ireland. If we are to continue to play this role in reforming the system, we will need financial support from the public. This is becoming ever more urgent for this organisation. If you are in a position to support our, either by becoming a member of IPRT or by making a donation to our work, then please contact us. We need your support, particularly at this time. Our research fellow Kate O’Hara is here today and can take your details or else you can make a donation or become a member through our website, www.iprt.ie. We would ask that you show your support for the kind of work that we do, the quality of which is, I hope you agree, apparent in this report and in the seminar today.

Many thanks indeed to you all.

