



**IPRT**  
Irish Penal Reform Trust

IPRT Position Paper 5

# **Penal Policy with Imprisonment as a Last Resort**

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The Irish Penal Reform Trust (IPRT) is Ireland's leading non-governmental organisation campaigning for the rights of everyone in the penal system, with prison as a last resort. IPRT is committed to reducing imprisonment and the progressive reform of the penal system based on evidence-led policies. IPRT works to achieve its goals through research, raising awareness, building alliances and growing our organisation.

Through its work, IPRT seeks to stimulate public debate on issues relating to the use of imprisonment, including on sentencing law and practice in Ireland. This is one in a series of Position Papers, which underpin the work of the IPRT.

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## Introduction

In its Strategic Plan 2008-2010, IPRT articulates a vision for the Irish penal system where imprisonment is used only as a last resort. In this Position Paper we set out the case for such a system, including an exposition of the main concepts that the system should be based on and the practical steps that can be taken at the level of law and state policy to achieve this vision. This Position Paper supplements, and should be read in conjunction with, the *IPRT Position Paper on Planning the Future of Irish Prisons*, which includes a number of specific recommendations in relation to the direction of penal policy in Ireland.

## 1. Penal Moderation and Reductionist Policies

Ireland systematically overuses imprisonment as punishment. While the average prison population on any given day is close to the European average, the rates of committal to prison on sentence – the ‘flow’ of prisoners through the system – means that Ireland has one of the most punitive criminal justice systems in Europe. Additionally, high numbers of people are sent to prison for short-term sentences. In 2008, 43% of all sentences were for 3 months or less, and 62% of overall committals on sentence were for 6 months or less.<sup>1</sup> Significant numbers of those who are sent to prison are committed there for non-violent offences such as fine default or relatively minor road traffic offences.<sup>2</sup> Irish prisons are chronically overcrowded, and IPRT’s view is that many prisoners who are sent to prison could safely be dealt with using non-custodial means. Such change to the use of imprisonment requires that the Irish penal policy and practice is radically reformed.

IPRT believes that any programme of reform in this area needs to be underpinned by a clear set of values. In this regard, the idea of ‘penal moderation’ is a pragmatic and balanced approach to such reform. The concept has been developed by the Commission on English Prisons Today<sup>3</sup> and is based on the principles of *restraint*, *parsimony* and *dignity*.

The Commission on English Prisons Today expresses its view of penal moderation in the following terms:

*Penal moderation invites us to think of the benefits of a minimum necessary penal system and of prison as an institution of last resort. To sentence an offender to imprisonment should be a difficult action and one which requires the most rigorous of justifications when all other options of social control have been exhausted. Its use must even then be administered only in strict proportion to the harm done and with the aim of reducing the likelihood of exacerbating the harm.*<sup>4</sup>

The idea of penal moderation is based on respect for human rights, understood not as a mechanical adherence to legal human rights standards, but as “a deeper commitment to notions of harm reduction”.<sup>5</sup> Many of the principles included in the idea of penal moderation, including its very strong link with a human rights approach, are equivalent to those underpinning the policy of ‘penal reductionism’,<sup>6</sup> a policy that supports a commitment to overall reduction of prison populations by using combined ‘front door’ and ‘back door’ strategies: limiting the number of people who are sent to prison in the first place; limitation on the use and length of pre-trial detention; limitation on the use and length of custodial sentences; wider application and proper resourcing of non-custodial sanctions; and finally, the greater use of various forms of early release of prisoners.<sup>7</sup>

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1 Irish Prison Service (2009) *Annual Report 2008* (available at: <http://www.irishprisons.ie/documents/IPSannualreport2008e.pdf>).

2 For more detailed analysis of committal rates and length of sentences, see: *IPRT Position Paper on Community-based Sanctions* (available at: [www.iprt.ie](http://www.iprt.ie)).

3 A forum established by the Howard League for Penal Reform which includes participation from all the key agencies and academic experts within the English prison system (<http://www.prisoncommission.org.uk/>)

4 Commission on English Prisons Today (2009) *Do Better Do Less: The report of the Commission on English Prisons Today*, London: The Howard League of Prison Reform, p.7. (available at: <http://www.howardleague.org/index.php?id=835>).

5 Ibid, at page 33

6 For detailed discussion of the policy of reductionism see: van Zyl Smit, D., Snacken, S. (2009) *Principles of European Prison Law and Policy: Penology and Human Rights*, Oxford: Oxford University Press, at pp. 86 – 99.

7 Ibid.

The principles of both penal moderation and penal reductionism should underline the Irish penal system if it is to respect the rights of all persons with imprisonment used only as a last resort.

The principle of the use of imprisonment as a last resort has been present in the debate in Ireland for over two decades. The *Whitaker Report* stated that imprisonment “should be employed only as a last resort [...] only if the offence is such that no other form of penalty is appropriate”.<sup>8</sup> This principle is also strongly supported by the Council of Europe, and included in the Preamble of European Prison Rules 2006 that states: “no one shall be deprived of liberty save as a measure of last resort”. The Council of Europe has also developed a number of recommendations relevant to the methods by which the reduction in prison population can be achieved.<sup>9</sup> Reductionist policies have also been described as supported by the jurisprudence of the European Court of Human Rights on the basis of the provisions of the European Convention on Human Rights.<sup>10</sup>

As well as providing the theoretical foundation for the judicial principle that all other avenues must be exhausted before imprisonment is considered, penal moderation also has some immediate consequences for planning within our penal system. In this regard, the *IPRT Position Paper on Planning the Future of Irish Prisons* calls for Government commitment to work towards significant reduction of the existing and future levels of imprisonment.

## 2. The Case Against Prison: Why Prison should only be a Last Resort

In framing a discussion around the number of prisoners Irish society needs to or wishes to have, a cost-benefit analysis of the social and economic consequences of imprisonment in Ireland must be central. We believe such an analysis will disclose that capping the overall prison population in the short term and significantly reducing it in the long-term are progressive and sensible political objectives.

### 2.1 The social harm of imprisonment

The strongest reason for moderation in the use of imprisonment is that it is largely an ineffective and counter-productive measure. In the words of the Scottish Prisons Commission, “prison may sometimes do good, but it always does harm”.<sup>11</sup> Prison represents a serious restriction on the rights of the prisoner, quite apart from the deprivation of liberty; it carries with it profound negative social impacts on the prisoner’s family and on his or her community and often the consequences of even a short period of imprisonment are permanent for both the prisoner and those close to him or her.<sup>12</sup> Losing contact with family, employment and social or community services, even for a short period,

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8 *Report of the Committee of Inquiry into the Penal System* (Chair: T.K. Whitaker, PL 3391, Stationery Office, Dublin, 1985), at para. 2.10.

9 See in particular: Council of Europe Recommendation No. R(99)22 of the Committee of Ministers to Member States concerning Prison Overcrowding and Prison Population Inflation; Council of Europe Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse; Council of Europe Recommendation No.R(92)16 of the Committee of Ministers to Member States on the European Rules on Community Sanctions and Measures; Council of Europe Recommendation Rec (2003) 22 of the Committee of Ministers to Member States on Conditional Release (parole) and Council of Europe Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules (European Prison Rules 2006)

10 van Zyl Smit, D., Snacken, S. (2009) *Principles of European Prison Law and Policy: Penology and Human Rights*, Oxford: Oxford University Press, at pp. 86 – 99.

11 Scottish Prisons Commission (2008) *Scotland’s Choice: Report of the Scottish Prisons Commission*, July 2008 (available at: <http://www.scotland.gov.uk/Publications/2008/06/30162955/0>).

12 See for example: Codd, H. (2008) *In the Shadow of Prison: Families, Imprisonment and Criminal Justice*, Cullompton: Willan Publishing; Liebling, A., Maruna, S. (Eds.) (2005). *The Effects of Imprisonment*. Cullompton: Willan Books.

can have long-lasting negative effects. Research has shown that those communities to which most ex-prisoners return are those characterised by high levels of deprivation and least able to cope with their re-entry.<sup>13</sup> IPRT believes that imprisonment can exacerbate such difficulties within those communities.

## 2.2 The cost of imprisonment

Imprisonment is also hugely expensive as a response to offending, taking scarce resources away from other areas of public expenditure such as health and education, or indeed the provision of services in the community that could go some way in preventing offending in the first place.<sup>14</sup> Currently, the average cost of one prison place in Ireland is estimated at over € 100,000 a year.<sup>15</sup> In a paper published in 2006, Downes and Hansen argue that investment in welfare by states has a significant impact on the reduction of prison numbers, while cuts in welfare spending have the opposite effect.<sup>16</sup> **IPRT believes that a sound, inclusive social policy is therefore at the heart of reforming penal policy in Ireland.**

The Commission on English Prisons Today has stressed the importance of what it calls ‘justice re-investment’, a policy decision and related practices that seek to “re-balance the criminal justice spend by deploying funding that would otherwise be spent on custody into community based initiatives which tackle the underlying causes of much crime”. The Commission goes on to state very clearly that it understands this process as investing in ‘alternatives’ *outside* of the justice system, and not *within* it. This understanding reflects IPRT’s view of the need to develop a policy of early intervention and prevention in Ireland, separate from the criminal justice system.

At another level, if we look at the social and economic causes of many types of crime, e.g. crime linked to the trade in illegal drugs, the removal and incapacitation of one group of offenders does not address the underlying factors that will lead future offenders to replace them. **IPRT believes that a focus on the causes of crime would be more effective and more efficient than expending resources on imprisonment.** It is IPRT’s view that these connections should be explored further in the formulation of the State’s criminal justice policy and IPRT is committed to highlighting further the benefits of shifting resources from punishment to prevention and diversion.

Some authors also argue that the criminal justice system focuses its resources excessively on perpetrators of relatively petty crimes while at the same time failing to address, or completely ignoring, the behaviour of those who contribute to larger scale social harm, such as causing environmental or economic damage.<sup>17</sup> This narrow focus of penal policy results in the spending of a lot of resources on punishment for activities which carry relatively less social harm.<sup>18</sup> A re-balancing of criminal justice policy in this respect is therefore also needed.

13 See for example: O’Donnell, I. (2008) ‘The Harms of Prison’ *Studies, An Irish Quarterly Review* 97 (388) .

14 Cavadino, M., Dignan, J. (2007) *The Penal System: An Introduction*, 4th Ed., London: SAGE.

15 In its *Annual Report 2008*, the Irish Prison Service reported the average cost of a prison place to be € 92,717; this sum, however, excludes costs such as teachers’ pay which were included in previous years as a cost to the Exchequer. When the percentage adjustment for re-stated figure for 2007 (€ 85, 362 instead of € 97,700 included in the *Annual Report 2007*) is applied in reverse to the 2008 figure, the cost of a prison place in 2008 goes up to over € 105,000 per year.

16 See for example: Downes, D. and Hansen, K. (2006) *Welfare and punishment. The relationship between welfare spending and imprisonment*. London: Centre for Crime and Justice Studies.

17 Dorling, D. et.al. (2008) *Criminal Obsessions: Why Harm Matters More than Crime*, London: Centre for Crime and Justice Studies.

18 See below: section 3.2 for more detailed discussion.

## 2.3 The ineffectiveness of prison

In relation to prison's effectiveness, there is a large body of evidence to suggest that rates of imprisonment have little relationship with criminal offending. Studies analysing offending in other jurisdictions found that to effect a 1% decrease in crime rates, the prison population would have to rise by 15%,<sup>19</sup> or even 25%.<sup>20</sup> In many respects imprisonment can have a criminogenic effect – it can cause crime by leading prisoners into patterns of future offending, more serious offending or by fostering the creation of a criminal sub-culture. At one level, the ineffectiveness of prison can be traced to the limitations of a closed institution, which creates an artificial environment and a culture of dependency, militating against the development of responsibility and skills amongst prisoners. There are various means of measuring the effectiveness of prison, among them the rate of re-offending by former prisoners, which in Ireland runs at 40% of released prisoners being re-committed to prison within two years. High recidivism rates found amongst Irish prisoners<sup>21</sup> demonstrate that imprisonment in Ireland is not achieving the basic function of reducing further offending.

## 2.4 Dignity – overcrowding as a human rights issue

The *IPRT Position Paper on Human Rights in Prison* sets out the legal obligations on the State to respect human dignity that must be the starting point for any system of incarceration. In practice, penal expansionism inevitably compromises the ability of a prison system to respect human rights by precipitating crises of prison overcrowding. The experience of the Irish prison system in recent years is typical in that respect.<sup>22</sup> The Irish penal estate has grown significantly since the mid-1990s, including during times of falling crime rates, yet most of the prisons continue to hold excessive numbers of prisoners and the problem of overcrowding remains a continuing concern.<sup>23</sup> Not only has the acute overcrowding within our system been identified by international human rights bodies as a human rights violation, they have also specifically rejected prison building as an acceptable or effective means of addressing the problem.<sup>24</sup> In this respect, IPRT agrees with the view of the CPT expressed in the Committee's 11th *Annual Report* that:

*The fact that a State locks up so many of its citizens cannot be convincingly explained away by a high crime rate; the general outlook of members of the law enforcement agencies and the judiciary must, in part, be responsible. [...] In such circumstances, throwing increasing amounts of money at the prison estate will not offer a solution. Instead, current law and practice in relation to custody pending*

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19 Home Office (2001) *Making Punishments Work: Report of a Review of the Sentencing Framework for England and Wales*, London: London: Her Majesty's Stationery Office ("Halliday Report").

20 Tarling, R. (1993) *Analysing Offending*, London: Her Majesty's Stationery Office.

21 Ian O'Donnell, Eric P.Baumer and Nicola Hughes (2008) 'Recidivism in the Republic of Ireland'. *Criminology and Criminal Justice*, 8 (2):123-146.

22 See: *IPRT Position Paper on Human Rights in Prison* and *IPRT Position Paper on Planning for the Future of Irish Prisons* (both available at [www.iprt.ie](http://www.iprt.ie)).

23 O'Donnell, I. (2008) 'Stagnation and Change in Irish Penal Policy' in Fowles, T. et.al. (eds) (2008) *The Howard Journal of Criminal Justice*, Vol.47, Number 2, May 2008, at page 121. O'Donnell notes that between the years of 1995-2000, the overall crime rates were falling, yet the State embarked on the biggest prison expansion programme in the history of the Irish State. As evidenced by current levels of prison population standing at nearly 4,000, this has not resulted in any significant reduction of overcrowding.

24 See for example: Human Rights Committee (2008) *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding observations of the Human Rights Committee, Ireland* (available at: [www.rightsmonitor.org](http://www.rightsmonitor.org)); the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)(2007) *Report to the Irish Government on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 13 October 2006* (available at: <http://www.cpt.coe.int/documents/irl/2007-40-inf-eng.pdf>) and the Council of Europe Recommendation No. R(99)22 of the Committee of Ministers to Member States concerning Prison Overcrowding and Prison Population Inflation.

*trial and sentencing, as well as the range of non-custodial sentences available need to be reviewed.*<sup>25</sup>

The current problem of overcrowding in Irish prisons is at such a serious level that it demands urgent action on the part of the State. The recent *Annual Report 2008* of the Inspector of Prisons conclusively shows that most of the institutions are chronically overcrowded.<sup>26</sup> In Ireland, the problems associated with high prisoner numbers are compounded by other factors, such as the very long lock-up times (often for 17 hours a day), the lack of appropriate in-cell sanitation facilities, and the fact that most prisoners now have to share cells, in breach of the European Prison Rules 2006.<sup>27</sup>

Given the persistence of the problem of overcrowding within the Irish prison system over the past 20 years despite significant expansion in the number of prison spaces during that period, **IPRT believes that the most effective way to reduce overcrowding is to reduce the number of prisoners within the system.**<sup>28</sup>

### 3. Putting the Principle of Last Resort into Effect

Once the fundamental principle that the overall prison population should be reduced is accepted, there is a range of tactical measures available to achieve this objective by drawing on international experience. In general, no one remedy will succeed in achieving this goal on its own. Rather a combination of some or all of the following approaches is necessary:

#### 3.1 Parsimony – prison as a last resort and the judicial role

Imprisonment may sometimes be appropriate or even necessary, but IPRT believes that it should only be used sparingly. This principle of parsimony is reflected in section 96 of the Children Act 2001, which directs sentencing courts to use detention only as a last resort. **IPRT believes that the principle of imprisonment as a last resort should also be enshrined in legislation for adult offenders and that judges should be required to explain their decision when departing from this principle.**

Introduction of new legislation to influence sentencing practice should also be considered, particularly in relation to the use of short sentences. The experience of the most recent Scottish legislation is very encouraging in this regard. The new Criminal Law and Licensing (Scotland) Bill seeks to discourage the use of short-term sentences in cases where other sentencing options are available.<sup>29</sup> While not preventing the courts from imposing short sentences, the new provisions require judges to consider all other available methods of dealing with the offender, and – when the imposition of a short sentence is considered the best approach – also require the judges to state their reasons for such a decision.<sup>30</sup> In its *Position Paper on Planning the Future of Irish Prisons*, IPRT calls on the Government to consider the introduction of similar legislation in Ireland.

<sup>25</sup> *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2001) 11th General Report on the CPT's activities, covering the period 1 January to 31 December 2000.* Strasbourg: Council of Europe.

<sup>26</sup> The Office of the Inspector of Prisons (2009) *Annual Report 2008* (available at: <http://www.inspectorofprisons.gov.ie/en/IOP/Pages/PR09000032>).

<sup>27</sup> Rule 18.5.

<sup>28</sup> For more detailed discussion of international human rights standards applicable to prisons see: *IPRT Position Paper on Human Rights in Prisons* (available at: [www.iprt.ie](http://www.iprt.ie)).

<sup>29</sup> Scottish Parliament Information Centre (2009) *Criminal Justice and Licensing (Scotland) Bill: Short Custodial Sentences* (available at: <http://www.scottish.parliament.uk/business/research/briefings-09/SB09-31.pdf>).

<sup>30</sup> *Ibid.*

Extending and monitoring the judicial principle of ‘imprisonment as a last resort’ in sentencing by creating an onus on judges to exhaust all other options before imposing a custodial sentence can have a profound impact on reducing demand for prison places. The role of the judiciary is a critical component in this regard and IPRT will be monitoring closely over the next few years how this principle is being applied in relation to the youth justice system, and the resulting impact on the use of detention in cases involving children in conflict with the law.

### **3.2 Removal of certain categories of prisoners from the prison population**

The average daily prison population figures for Irish prisons do not tell the full story of Ireland’s use of imprisonment. Ireland has a very high rate of committals, i.e. numbers of people sent to prison, explained by a relatively high use of short sentences of 3 months or less, and large numbers of prisoners remanded following a denial of bail. In 2008, the Irish Prison Service reported that offences against a person constituted around 14% (882) of all committals under sentence (8,043). In the same year, the total number of committals under sentence for offences against property was 2,090 (26%), with only 65 of those classified as offences against property with violence. In 2008, 2,254 (28%) committals under sentence related to road traffic offences. The Irish Prison Service Annual Report 2008 also recorded that over half of road traffic sentences (1,382) were for less than three months.

**<sup>31</sup>IPRT believes that short-term and low risk offenders could be safely and efficiently removed from custody, thus reducing the pressure on the prisons in terms of space and resources.** We also urge the Government to move immediately to remove certain categories of offenders from detention (e.g. the proposed legislation on fine defaulters, Fines Bill 2009 is a welcome start) and increase remission across the whole system (e.g. to 33% of sentence as provided for in legislation), and to consider the introduction of even greater remission in the future, in particular for less serious offences and where there is evidence of positive engagement with available rehabilitative services.

### **3.3 Immigration detention**

As a point of principle, IPRT considers that holding immigration detainees in the prison estate is wholly unacceptable. In particular, people seeking asylum in Ireland should not be detained in prisons. International standards in this area, while giving the State a wide margin of appreciation in relation to devising immigration policies, are quite clear on the fact that immigration detention should only be used in exceptional circumstances, and for the minimum possible time. The Council of Europe Recommendation on the matter also states that:

*Measures of detention of asylum seekers should be applied only after careful examination of their necessity in each individual case. Those measures should be specific, temporary and non-arbitrary and should be applied for the shortest possible time.<sup>32</sup>*

The practice of holding immigration detainees in prison has also been condemned by the CPT.

### **3.4 Reducing the number of remand prisoners**

To significantly reduce the numbers of detainees on remand in Irish prisons, the criminal justice system should operate on the presumption of bail, and use remand into custody only where absolutely necessary. While we recognise that pre-trial detention may be necessary in some cases, the fact

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<sup>31</sup> Irish Prison Service (2009) *Annual Report 2008* (available at: <http://www.irishprisons.ie/documents/IPSanualreport2008e.pdf>).

<sup>32</sup> Council of Europe *Recommendation Rec(2003)5 of the Committee of Ministers to member states on measures of detention of asylum seekers*.

that remand prisoners are presumed to be innocent until proven otherwise at the trial means that detention should be used sparingly. The State should give consideration to the provision of bail hostels and bail addresses for those who are homeless or otherwise unable to reside at a specified address. Levels of financial sureties should also be reviewed to make sure that they are realistic, particularly in the current economic climate. **IPRT also calls on the Government, the Courts Service and the Prison Service to conduct an analysis of how many people remanded in custody go on to receive a custodial sentence to assess the necessity of using this measure to the extent it is currently used.**

### 3.5 Community-based sanctions

Any assessment of the effectiveness of prison must consider what choices other than sending someone to prison are available to courts and other criminal justice agencies. Research has demonstrated that there is great scope for greater use of existing community-based sanctions in an Irish context, sanctions which would be much cheaper and, in certain categories of offenders, demonstrably more effective.<sup>33</sup> Most significantly, community-based sanctions would not carry with them the social harm of imprisonment, would enable an offender to remain part of his or her community while serving their sentence, and would provide the potential to ensure offenders contribute to society. **IPRT believes that community-based sanctions should be properly resourced and implemented to reduce the prison population in Ireland.**

### 3.6 Reducing recidivism through appropriate post-release support

Incarceration often damages the prisoner's social functioning, therefore contributing to his or her return to offending following release.<sup>34</sup> Studies have shown that imprisonment has a damaging effect on the mental health of prisoners and can impair the ability to function in the outside world; prisoners can become institutionalized and therefore unable to live outside of the prison environment.<sup>35</sup>

In this context, IPRT believes that appropriate preparation for release and post-release support play an important role in the successful return of former prisoners to their families, communities and wider society, and in preventing re-offending and return to prison in the future. Two elements should always be considered: preparation during the course of the sentence ('sentence-planning') and coordinated support post-release. **IPRT believes that post-release support is crucial** in the successful re-integration of prisoners, and should link the former prisoner not only with potential employment opportunities but also with appropriate services in the community, for example with mental health services or substance abuse support groups, as well as family support groups. Considering the high recidivism rate in Ireland at present, and its impact on prisoner numbers, investing in post-release support has a great potential for reducing the overall prison population.

### 3.7 Long-term solutions

As well as greater emphasis on and resourcing for alternatives to custody, targeted social and economic supports within communities from which prisoners are drawn hold the promise of long-term benefits for society and significant reduction in prison numbers. In 2009-2011, IPRT is

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33 Seymour, M. (2006) *Alternatives to custody*, Dublin: Business in the Community (available at: <http://www.bitc.ie/uploads/alternativestocustody2006.pdf>). See also: *IPRT Position Paper on Community-based sanctions* (available at: [www.iprt.ie](http://www.iprt.ie)).

34 Coyle, A. (2005) *Understanding prisons: Key issues in policy and practice*, Milton Keynes: Open University Press; Maruna, S. (2007) "After Prison -- What?: The Ex-Prisoner's Struggle to Desist from Crime" in Y. Jewkes (Ed.) *Handbook on Prisons*, Cullompton: Willan Publishing (pp. 650-671).

35 Coyle, A., op.cit. at note 23.

working on a number of research projects to explore the economic and social benefits of diversion programmes and interventions which remove minor offenders – particularly young offenders – from the formal criminal justice system. Through this research work, we will be in a position to contribute further proposals for the reform of current sentencing and imprisonment policy in Ireland.

## 4. Summary and Conclusions

- Irish penal policy should be based on the principle of penal moderation, and State policy should aim at the reduction of the level of imprisonment as advocated by the Council of Europe and others. The commitment to reducing the overall prison population in Ireland should be shared across the political spectrum and be based on the recognition that imprisonment is costly and counter-productive.
- There remains a very serious problem with overcrowding within the existing prison system in Ireland, exacerbating other difficulties in the prisons such as poor cell conditions, poor regimes and inter-prisoner violence and tensions. IPRT believes it is time to separate the positive plans to replace the older and ill-suited prison stock with modern facilities from the ill-judged and retrograde proposals to expand the size of the prison estate.
- Rather than expanding the prison stock, IPRT believes that the best way to reduce overcrowding is to reduce the number of prisoners in the system. IPRT therefore recommends that the following steps are taken immediately or within the short-term:
  - removal of certain categories of prisoners from the system (for instance, remand prisoners, immigration detainees, fine defaulters, etc.);
  - resourcing of alternatives to custody appropriately;
  - introduction of measures to effectively reduce recidivism and support long-term re-integration of prisoners to life in the community.
- Considering the level of harm that it carries, imprisonment should only ever be used as a last resort. Accordingly, **IPRT recommends that the principle of parsimony expressed in section 96 of the Children Act 2001 be extended to adult offending and sentencing policy.** Judges should be required to give the reasons for which imprisonment should be used, and why other means of addressing offending behaviour would not be sufficient in a particular case. IPRT is committed to regular monitoring of the implementation and effectiveness of s.96 in reducing the number of children in custody in Ireland; IPRT believes that an understanding of the effectiveness of s.96 is crucial to its implementation on a wider basis in the adult system.
- **IPRT also calls on the Government to consider the introduction of legislation that would seek to discourage the use of short-term sentences, similar to provisions of the Criminal Justice and Licensing (Scotland) Bill.**
- Together with the commitment to significant reduction of the prison population, it is of utmost importance that available resources are shifted away from punishment and towards crime prevention, investment in communities to tackle social exclusion and the causes of crime, and proper resourcing of diversion and early intervention programmes.

