



**IPRT Submission to  
Department of Children, Equality, Disability, Integration and Youth:  
Draft Initial State Report under the UN Convention on the Rights of  
Persons with Disabilities**

**6th April 2021**

**About IPRT**

Established in 1994, the Irish Penal Reform Trust (IPRT) is Ireland's leading non-governmental organisation campaigning for the rights of everyone in the penal system and the progressive reform of Irish penal policy, 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. IPRT publishes a wide range of evidence-informed policy positions and research documents; we campaign 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.

**Introduction**

IPRT welcomes the opportunity to make a submission on the State's Initial Report under the UN Convention on the Rights of Persons with Disabilities (CRPD) and in doing so hopes to highlight the particular needs of people with disabilities in prison in Ireland.

In 2019, IPRT commissioned research on the experience of prisoners with disabilities, resulting in the publication of the report '*Making Rights Real for People with Disabilities in Prison*' in January 2020.<sup>1</sup> The report addresses the rights and experiences of prisoners with all forms of disability, including physical, intellectual, sensory and psychosocial. The research was carried out by researchers attached to the Centre for Disability Law and Policy at the National University of Ireland Galway, and was funded by the Irish Human Rights and Equality Commission (IHREC).

A copy of the report is enclosed with this submission and IPRT invites the Department to closely consider its key findings and recommendations before finalising the State's Initial Report under CRPD. The report is very comprehensive and IPRT will accordingly keep this submission brief, addressing only (a) the gaps in the State's Initial Report as identified by IPRT and (b) IPRT's key recommendations for

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<sup>1</sup> The report is available on the IPRT website as follows: [https://www.iprt.ie/site/assets/files/6565/people\\_with\\_disabilities\\_in\\_detention\\_-\\_single-pages.pdf](https://www.iprt.ie/site/assets/files/6565/people_with_disabilities_in_detention_-_single-pages.pdf)

strengthening the State's Report before submission to the UN Committee on the Rights of Persons with Disabilities.

## Gaps in the State's Initial Report

Persons with disabilities in prison are only addressed briefly in the State's Initial Report, at paragraphs 179-185 and under the remit of Article 14 CRPD ('Liberty and security of the person'). While the State's report provides some information about the current situation of prisoners with disabilities in Ireland, it does not set out the full picture. Specifically, IPRT draws the Department's attention to the following:

### i. Unequal Access to Healthcare

While it is correct to say that the Prison Rules 2007 state that prisoners, including those with a disability, are entitled to the provision of healthcare to the same standard as that available to medical card holders, the *Making Rights Real* report did not find that that was the lived experience of many people with disabilities in prison. In particular, the report found that many prisoners with disabilities did not feel they had access to specialist services such as physiotherapy and speech therapy. It was also reported that it may be more difficult for prisoners with disabilities to access supports such as Alcoholics Anonymous and Narcotics Anonymous.<sup>2</sup>

### ii. Lack of Mental Health Supports

The *Making Rights Real* report identified significant concerns raised by prisoners, staff and people working in the criminal justice system about access to healthcare services, including mental health treatment and more specialist treatment. One official interviewed as part of the research noted:

*"There is a primary healthcare services, there is a psychology service, but both of those are totally overstretched. Our mental health services, in-reach mental health service, but again they're also heavily subscribed, staffing overstretched. So my own view is that it doesn't currently meet the needs of the population."*<sup>3</sup>

The researchers also noted that the lack of alternatives to psychiatry within prison was consistently raised as an issue by those interviewed, along with the lack of psychology supports.<sup>4</sup>

### iii. Unequal Access to Services in Prison and Failures to Make Reasonable Accommodations

The State's Initial Report says at paragraph 183 that the Equal Status Acts and Public Sector Equality and Human Rights Duty apply to Irish prisons and that prisoners with a disability have a right to reasonable accommodation under that legislation. While these rights are protected in Irish law, there is a gap between what is legally required and what happens in practice in Irish prisons.

For example, the *Making Rights Real* report identified as follows:

- There remain significant concerns about the environmental accessibility of Irish prisons for persons with disabilities, with some individuals being unable to leave their cells or wings for large portions of their prison stay, which in turn restricts their ability to take part in prison activities (including education, employment and recreation).<sup>5</sup>

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<sup>2</sup> See pp.38-40 of *Making Rights Real*.

<sup>3</sup> See pp.38-39.

<sup>4</sup> See pp.39-43.

<sup>5</sup> See pp.27-30, 36-38.

- Inaccessible information and a lack of information were two key issues identified during the research, with the report noting that the “majority of people we spoke to in prison had difficulties accessing information about the prison and about their rights within it.”<sup>6</sup> This can cause difficulties for prisoners with disabilities in following the disciplinary regime in prison, because they don’t actually understand the rules, and means that they are potentially more likely to be found in breach of prison discipline.<sup>7</sup>
- Deaf prisoners routinely had no one to communicate with and often received only one hour a week of communication with someone proficient in Irish Sign Language.<sup>8</sup> Most of the prisoners spoken to did not appear to be aware of their right to reasonable accommodations, with some describing being denied access to devices that they relied upon outside prison (such as a white stick for a person with visual impairment) and stakeholders speaking of a “lack of provision of formal reasonable accommodation.”<sup>9</sup>

Some of the above findings indicate a potential breach of the Article 14 CRPD requirement that persons with disabilities who are deprived of their liberty “are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation.”

These findings also potentially engage Article 8 (‘Awareness-raising’), Article 9 (‘Accessibility’), Article 13 (‘Access to justice’) and Article 21 (‘Freedom of expression and opinion and access to information’) CRPD.

#### iv. Right to Freedom from Abuse and Right to Privacy

The State’s Initial Report makes no reference to the experience of prisoners with disabilities insofar as Article 16 (‘Freedom from exploitation, violence and abuse’) and Article 22 (‘Respect for privacy’) are concerned. These rights are of particular relevance for people with disabilities in prison, with the *Making Rights Real* report concluding as follows:

- While many prisoners with disabilities relied on other prisoners for support, there were also some reports of bullying in the prison environment, to the extent that some people chose to try hide their disability while in prison in order to avoid being picked on.<sup>10</sup>
- There were serious concerns from both prison staff and prisoners regarding privacy around the disclosure of prisoners’ disabilities. In particular, a number of the prisoners interviewed by researchers expressed concerns that the privacy and confidentiality of the information regarding their disabilities was not respected, while some frontline prison staff spoke of learning about a person’s disability “on the grapevine” from other staff or prisoners.<sup>11</sup>

### IPRT Recommendations for Strengthening the State’s Initial Report

1. **Further detail and information about the current situation of people with disabilities in Irish prisons should be included in the State’s Initial Report to the Committee on the Rights of Persons with Disabilities, so as to ensure the Committee has an accurate and up-to-date report on Ireland’s progress in implementing the CRPD.**

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<sup>6</sup> See pp.30-31, 33-34.

<sup>7</sup> See pp.4, 51-52.

<sup>8</sup> See pp.31-33.

<sup>9</sup> See pp.34-35.

<sup>10</sup> See pp.47-49.

<sup>11</sup> See p.46.

2. Serious consideration should be given to implementing the recommendations made by the *Making Rights Real* report,<sup>12</sup> such as undertaking an accessibility audit of all prison settings, engaging in a disability equality analysis of the Irish Prison Service and carrying out further research to understand the pre- and post-prison experiences of prisoners with disabilities, and addressing these efforts and/or plans for implementation in the State's Initial Report.
3. The Government's commitment to exploring the profile of the mental health needs of the prison population so as to "*gather data on the prevalence of autism, intellectual disability and needs relating to addiction and dual diagnosis*" (as recorded in the Government's '*Sharing the Vision: A Mental Health Policy for Everyone*'<sup>13</sup>) should be included in the State's Initial Report, with a repeat of the Government's support for this initiative.
4. This Initial Report on the CRPD may be used as an opportunity for the State to consider transferring responsibility for prison healthcare from the Irish Prison Service to the Health Service Executive (a recommendation made by the Inspector of Prisons in a 2016 report on healthcare in Irish prisons<sup>14</sup> and an approach favoured by the World Health Organisation<sup>15</sup>). Benefits to this approach include an overall improvement in prison health, which in turn could assist in improving the treatment of persons with disabilities in prison.

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<sup>12</sup> See pp.58-59.

<sup>13</sup> Government of Ireland, *Sharing the Vision: A Mental Health Policy for Everyone*, 2020, at p.51. Available at: <https://www.gov.ie/en/publication/2e46f-sharing-the-vision-a-mental-health-policy-for-everyone/>.

<sup>14</sup> Office of Inspector of Prisons, *Healthcare in Irish Prisons Report by Judge Michael O'Reilly Inspector of Prisons*, 2016, at p.23. Available at: [http://www.justice.ie/en/JELR/Healthcare\\_in\\_Irish\\_Prisons\\_Report.pdf/Files/Healthcare\\_in\\_Irish\\_Prisons\\_Report.pdf](http://www.justice.ie/en/JELR/Healthcare_in_Irish_Prisons_Report.pdf/Files/Healthcare_in_Irish_Prisons_Report.pdf).

<sup>15</sup> World Health Organisation, *Leaving No One Behind in Prison Health, The Helsinki Conclusions*, 2020. Available at: [https://www.euro.who.int/\\_data/assets/pdf\\_file/0005/441761/prison-health-Helsinki-Conclusions.pdf](https://www.euro.who.int/_data/assets/pdf_file/0005/441761/prison-health-Helsinki-Conclusions.pdf).