Prisoners and Prison Life

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Prisoners and Prison Life

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Countries with similar economies, cultures, languages and politics tend to have similar penal systems, albeit with some surprises and anomalies (Cavadino and Dignan, 2006). The purpose of this chapter is to explore the penal systems in the Republic of Ireland and Northern Ireland to see if they converge with other Western, developed, industrialised democracies and what lessons can be learnt from the anomalies that emerge. The chapter is divided into five sections. Imprisonment in pre-partition Ireland is reviewed before moving on to examine how the penal systems in the Republic of Ireland and Northern Ireland developed after partition. Next, everyday prison life is explored to investigate how order and control is maintained as well as the extent to which the needs and quality of life of those imprisoned are addressed. Lastly, the suitability of prison accountability mechanisms are reviewed to determine their ability to promote change and encourage improvements and reform in Irish and Northern Ireland prisons.

Imprisonment in Pre-Partition Ireland

Up until the mid-nineteenth Century, the primary methods of punishment in the island of Ireland were public punishments (such as executions) and transportation. In 1775, transportation to America was discontinued due to the American War of Independence and the use of public punishments were no longer deemed desirable because of their failure to deter criminality, increased questioning of the legitimacy of public executions and potential for such displays to agitate national unrest and uprisings against English and Scottish gentry, who had colonised the island of Ireland since the 16th and 17th Centuries (Kilcommins et al. 2004). This

led to an increased interest in the prison as a place of punishment, with the introduction of legislation to promote prison reforms and establish a prison inspectorate. Prior to this, prisons had primarily been viewed as holding cells for people awaiting trial, sentencing, transportation or public punishment and were managed locally with conditions varying depending on a person's ability to pay (Ignatieff, 1981). Prison reforms provided an official salary for jailers and required local authorities to provide food and medicine to those imprisoned at public expense (Kilcommins et al. 2004). Failures to adhere to these reforms led to the appointment of local prison inspectors and an inspector-general who reported to parliament (Kilcommins et al. 2004).

Unfortunately, this interest in prison reform was short-lived as the colonisation of Australia from 1788 to the 1850s meant that transportation was reintroduced as the primary means of punishment (Kilcommins et al. 2004). In addition, national uprisings and rebellions in the island of Ireland at this time meant that the use of corrective methods and reforms were postponed in favour of suppression (Kilcommins et al. 2004).

Nonetheless, attempts were made to restructure imprisonment so that it could be used as an alternative to transportation. The penitentiary system was introduced to reform individuals through solitary imprisonment, labour and religious instruction, with Millbank in London and Richmond in Dublin chosen as the sites for the first penitentiary prisons in Britain and Ireland (Heaney, 2003). While the penitentiary system operated in Millbank between 1816 and 1843, it was less successful in Richmond due to an inappropriate prison design, lack of planning, insufficient supervision, staff malpractice as well as tensions between the Catholic Chaplin and Protestant Governor (Heaney, 2003). Further, people tended to prefer transportation to the strict discipline, lengthy periods of detention and unfamiliar evangelical atmosphere (Heaney, 2003). For these reasons, Richmond penitentiary was closed after eleven years (1820-1831) and transportation continued to be a popular punishment, with

approximately 26,500 people transported to Australia between 1791 and 1853 (Kilcommins et al. 2004).

By the 1840s, concerns about the cost of transportation and a perception that it represented free passage to a more prosperous life meant that it was replaced with penal servitude as the main method of punishment in 1853, refocusing attention on the prison as a place of punishment and possible behavioural change (Kilcommins et al. 2004). This led to a significant increase in the number of people detained in Britain and Ireland, and the two jurisdictions differed in their management of this increase (Dooley, 2003). The Irish solution to managing this increase became known as the 'Irish system' and played a major role in shaping penal systems internationally, including in America, Europe, Brazil, Ecuador and Australia (Roth, 2006).

The 'Irish system' was developed by Sir Walter Crofton and was influenced by the work of Alexander Maconoichie and Sir Joshua Jebb (Dooley, 2003). Sir Walter Crofton was appointed chairman of the newly established Prison Convicts Board in 1854, whose responsibility it was to oversee convict prisons and deal with the increasing convict prison population (Dooley, 2003). At this time, prisons on the island of Ireland consisted of local jails (also known as goals), debtors' prison, houses of correction and convict prisons (Dooley, 2003; Kilcommins et al. 2004).

The 'Irish system' involved three stages beginning with approximately nine months of solitary confinement in Mountjoy prison in Dublin, after which time individuals were transferred to a different prison and engaged in work and education. People could earn marks for their general conduct and demeanour, performance in education, and industry at work, but those imprisoned for political and agrarian offences were excluded from participation (Tomlinson, 1995). Upon earning sufficient points, they moved to the intermediate stage which

was unique to the 'Irish system' and involved minimal supervision, paid work, education and religious instruction (Dooley, 2003). These intermediate establishments were similar to open and semi-open prisons used today in the Republic of Ireland, Northern Ireland and internationally (Kilcommins et al. 2004). It was Crofton's intention that individuals would spend the final third of their sentence in these intermediate establishments and would be released under supervision in the community once they had obtained employment (Dooley, 2003). The 'Irish system' was unique in its individualised use of rewards and incentives to prepare people for release and its focus on individuals earning privileges. Prior to this, attempts at prisoner reform tended to be en masse and earning of incentives was not imposed in this manner (Dooley, 2003).

Statistics for the first group of individuals released under the system reveal that five years after release, approximately 5 per cent had their release revoked, primarily due to a failure to adhere to the conditions of their release rather than committing new crimes (Dooley, 2003). Others claim that up to 10 per cent of people were reconvicted (Kilcommins et al. 2004).

Critics argued that the apparent success of the system was due to specific social and economic conditions at that time. Some believe that many people released under this system were destitute due to the famine (1845-1852) and not delinquent and it is for this reason that reconviction rates are lower (Kilcommins et al. 2004). Indeed, although the number of people imprisoned in 1867 dropped by 50 per cent compared to during the famine, re-imprisonment rates for those released at this time trebled, leading prison administrations to believe that they were dealing with more delinquent individuals in the late 1860s compared to those who they believed had been driven to commit crime for economic reasons during the famine in the 1850s (Kilcommins et al. 2004). Also, the deaths and emigration associated with the famine meant that there was a smaller pool of potential employees for employers to choose from, increasing the availability of employment opportunities and willingness of employers to hire those who

had been imprisoned (Dooley, 2003). This has been argued to have been key to the success and reduced reconvictions of those released under the 'Irish system' as employers may not have been as willing to employ those who had been imprisoned if as many of the population had not emigrated or died as a result of the famine (Dooley, 2003). However, after the passing of the 1865 Prison Act, the 'Irish system' crumbled (Dooley, 2003).

The 1865 Prison Act represented an attempt to ensure a uniformity of prison conditions across the various prison establishments on the island of Ireland and Britain and was followed by a desire to centralise the administration of all prisons in 1877. This lead to the creation of a General Prisons Board under the Prisons (Ireland) Act 1877, replacing the Prisons Convict Board and inspector-general of prisons (Kilcommins et al. 2004). The General Prisons Board was in charge of prison administration until 1928 when, after partition, responsibility for prisons south of the border was transferred to the Irish Department of Justice (Kilcommins et al. 2004). Prisons in Northern Ireland remained under British control until the devolution of justice powers to the Northern Ireland Assembly in 2010 (Tomlinson, 1995; Prison Review Team, 2011a).

Although the 'Irish system' was only in operation between 1854 and 1865, it has played a major role in shaping the penal philosophies and administration of prison systems internationally (Heffernan, 2004; Roth, 2006). In particular, it played a significant role in shaping American penal policies and reform, and remnants of the 'Irish system' remain today in the form of prison incentive schemes, individualised prison discipline and rehabilitation programmes, education and behaviour modification programmes, parole and the use of open and semi-open prisons (Dooley, 2003; Heffernan, 2004).

Irish Penal System

After partition, many politicians in the Republic of Ireland expressed a desire for penal reform having themselves been imprisoned during the fight for independence from British rule and subsequent civil war over partition (Kilcommins, et al. 2004; Tomlinson, 1995). Yet, there was a dearth of academic research and reform of Irish prisons until the 1960s (Kilcommins et al. 2004; Rogan, 2011). A detailed exploration of the main drivers for penal policy is beyond the scope of this chapter but these are explored in depth in other chapters within this Handbook (see Hamilton, *infra*; Rogan, *infra*). While the prison population was low until the 1960s (excluding the civil war), the Republic of Ireland nonetheless confined large sectors of its population in institutions other than prison (see O'Sullivan and O'Donnell, 2007, 2012 as well as Brennan, *infra*). Those imprisoned for political offences continued to be a feature of Irish imprisonment during this time and the Department of Justice began reducing opportunities for independent public scrutiny of prison conditions (Kilcommins et al. 2004; Rogan, 2011; Tomlinson, 1995). Also, in 1958 Mountjoy female prison, which had been the largest female prison in the state since it opened in 1858, was given over to young men and become known as St. Patrick's Institution (Quinlan, 2008). The small number of women detained there at the time were moved to a basement of one wing of St. Patrick's Institution and held there until 1990 (Quinlan, 2008).

In the 1960s, there was a renewed focus on rehabilitation and improvements were made to prisoner accommodation, staff training, education, treatment programmes, medical care, prisoner welfare as well as the establishment of a training unit and hostel in Mountjoy prison, creating more open conditions for those imprisoned similar to the last stage of the 'Irish system' (Kilcommins et al. 2004; Rogan, 2011). While rehabilitation remained an official aim of Irish penal policy during the 1970s, the outbreak of the Troubles in NI led to an increase in those imprisoned for political reasons as well as a general increased suspiciousness of outsiders, focus on security, and suppression of subversion in the Department of Justice (Rogan, 2011).

The increase in the number of people imprisoned for political offences led to protests, hunger strikes, escapes and a greater focus on security (Kilcommins et al. 2004; Rogan, 2011). MacBride (1982) argued that the detention of people for political offences hindered penal reform as the priority of government was security and deterrence. In addition, serious indictable crime rose considerably between the 1970s and 1980s and the daily average prison population doubled in size (Rogan, 2011). This lead to overcrowding concerns, to which the Department of Justice responded by seeking to expand prison places (Rogan, 2011).

The 1980s brought limited financial resources due to an economic recession, concerns about drug use, AIDS, poor prison conditions, poor prison industrial relations and an increase in deaths in custody (Rogan, 2011). Government recognised these concerns and established the Whitaker Committee to report on prison conditions and prison policy (Whitaker, 1986). This Committee recommended a cap on prison places, more use of alternatives to imprisonment, reduced use of short prison sentences, changes to industrial relation practices, increased collection of statistical data on crime and imprisonment, improved educational and training facilities, improved rehabilitation, treatment, re-integration and after-care as well as highlighting the poor physical conditions of prison buildings (Whitaker, 1986). However, these recommendations were not acted on.

In the 1990s and 2000s, growing public concerns about crime rates, high profile killings due to gangs/organised crime and the politicisation of crime led to changes within policing, sentencing and imprisonment (see Hourigan, *infra*). The Irish Prison Service (IPS) was established in 1996 as an independent agency of the Department of Justice and was given responsibility for the day to day management of Irish prisons. During this time, elements of control and order become increasingly apparent as the IPS became more focused on risk management, encouraging individual responsibility, monitoring the progression of those imprisoned and developing specific offender focused strategies (IPS, 2014). This move

reflected a shift towards a more administrative, risk management approach to dealing with imprisonment observed in many Western, developed countries as governments attempted to manage larger prison populations with limited resources (Feeley and Simon, 1992). Yet, these processes have not been as advanced in the Republic of Ireland as elsewhere due to limited technological and research infrastructure investment amongst other explanations (e.g. Department of Justice and Equality, 2014; O'Donnell, 2008; O'Donnell et al. 2008).

In addition, the prison population increased significantly due to a reduction in the use of temporary release (frequently used in previous decades to reduce prison accommodation pressures), longer prison sentences and an increase in the number of people detained on remand (O'Donnell, 2005a; Rogan, 2011). The number of women detained in the IPS also increased and led to the transfer of women to their own wing in St. Patrick's Institution in 1990 (Quinlan, 2008). They remained there until 1999 when the women were moved to a specially designed progressive centre called the Dóchas centre (Quinlan, 2008). At the time, this centre was seen as an example of best practice in meeting the needs of imprisoned women in Europe and incorporated aspects of the 'Irish System' through their ability to earn extra privileges and process to more open prison conditions (Quinlan, 2008; Rogan, 2010).

During the early 2000s, the government continued to view prison expansion as the primary means of addressing the accommodation pressures within the prison system and an increase in financial resources available to the government (due to the Celtic Tiger) facilitated this approach, despite numerous objections from academics and community organisations (e.g. O'Donnell, 2005b; 2008; IPRT, 2008, 2009). However, following the economic crisis of 2008 and the subsequent need for financial assistance from the International Monetary Fund and EU in 2010, government plans for prison expansion were reviewed and a government commitment was given to reduce the costs associated with imprisonment (Government of Ireland, 2011; Thornton Hall Review Group, 2011). This contributed to a renewed emphasis on prison as a

last resort, reducing the use of short prison sentences, increasing alternatives to imprisonment, developing community sanctions and increasing the use of semi-open and open prisons (Department of Justice and Equality, 2014).

Nevertheless, despite the increase in Irish imprisonment in the last few decades, the Republic of Ireland is consistently ranked as a country with a relatively low use of imprisonment (ICPS, 2013).

Northern Ireland Penal System

Similar to the Republic of Ireland, there was little reform of the prison system in Northern Ireland after partition up until the 1960s (Tomlinson, 1995). Low crime rates and low prisoner numbers have been put forward as the main explanations for why there was little interest in developing the prison system, improving prison conditions, or providing education and welfare (Tomlinson, 1995). In addition, as in the Republic of Ireland, coercive detention in institutions other than prisons was a feature of life in Northern Ireland but less is known about these activities and there are growing calls for a public inquiry (Amnesty International, 2013). Internment without trial continued to be used during outbreaks of political unrest and up until the late 1960s, the prison population grew at a steady pace (notwithstanding some fluctuations due to the use of internment) (Tomlinson, 1995).

The outbreak of the Troubles in the late 1960s had a significant impact on the Northern Ireland penal system as official imprisonment rates dramatically increased due to the internment of individuals under emergency legislation and the prison population grew by 400 per cent over five years (McEvoy, 2001; Tomlinson, 1995). In addition, the number of staff working in the prisons dramatically increased with 292 prison staff employed in 1969 growing

to 2,184 in 1976 (McEvoy, 2001). The outbreak of the Troubles also impacted on prison research in Northern Ireland with the majority of research focusing on the issue of political imprisonment.

Up until 1972, those imprisoned for political reasons were held in the same conditions as those imprisoned for non-political reasons and were subjected to sporadic forcible attempts by prison staff to wear a prison uniform (McEvoy, 2001). Between 1972 and 1976, those imprisoned for political reasons were granted special category status and were detained separately from others within the prison and given more autonomy to regulate their day to day activities (McEvoy, 2001). In 1976, political changes again impacted heavily on Northern Ireland prisons as government officials embarked on a policy of criminalisation (McEvoy, 2001). This resulted in prison staff attempting to regain control of daily activities from those imprisoned for political reasons and treating incoming people imprisoned for political reasons the same as others within the prison (McEvoy, 2001). This meant that distant staff-prisoner relationships became more hostile as staff began using physical force and prison disciplinary procedures to compel those imprisoned for political reasons to comply with prison rules (McEvoy, 2001). This time is associated with a deterioration in prison conditions, threats and deliberate killing of prison staff, brutality, violence, dehumanisation of both staff and those imprisoned, insufficient accountability mechanisms and human rights abuses, although experiences varied depending on status, age and institution (Amnesty International, 1978; Bates-Gaston, 2003; McEvoy, 2001).

Our theoretical understanding of how people resist prison authority has been greatly enhanced by research into the strategies used by those imprisoned for political reasons at this time. McEvoy (2001) identified the use of escape, self-sacrifice (hunger strikes, protests), violence, intimidation and the use of litigation to challenge and transform prison administration as key resistance strategies. These strategies impacted heavily on prison conditions and

continue to have repercussions today. For example, the resistance strategies used by those imprisoned for political reasons during the Troubles, especially the use of violence, intimidation and litigation, continue to shape the behaviour of all groups imprisoned today in Northern Ireland as well as those claiming political status throughout the island. Furthermore, prison staff continue to receive death threats with David Black killed in 2012 because of his profession as a Northern Ireland prison officer.

Rapid expansion of the prison population in the late 1960s and 1970s not only meant that staff training and prison accommodation were particularly inadequate at this time but it also changed the profile of those committed to prison (Tomlinson, 1995). The distribution of short-term and long-term committals changed rapidly with long-term committals representing 29 per cent of all committals in 1977 compared to a maximum of 2 per cent during the 1960s (Tomlinson, 1995). Likewise, by 1987, lifers represented 28 per cent of all sentenced committals and 40 per cent of those imprisoned for political reasons (Tomlinson, 1995). As such, Northern Ireland prisons had to deal with two distinct groups, those serving short sentences for non-politically motivated offences and those serving long sentences predominately for politically motivated offences (Tomlinson, 1995).

From 1981 onwards, political moves by the Thatcher government to ensure organisations became more efficient, economical and effective, combined with an increasing acceptance that prison could not serve as a mechanism to defeat/deny the political nature of the conflict, led to the adoption of a manageralist approach to prisons in Northern Ireland (McEvoy, 2001). This meant there was an acceptance of the existence of political groupings and an attempt to manage them in a way which limited their influence and focused on risk and security (McEvoy, 2001). Moreover, in 1986 Armagh prison, which had been used to hold female imprisoned since it opened in the 1780s, was closed and females were moved to a new

purpose-built facility called Mourne House within the high security Maghaberry prison estate (Moore and Scraton, 2014).

The 1980s also saw the number of people imprisoned for fine default significantly increase from 14 per cent of all committals at the beginning of the 1980s to 55 per cent of all sentenced committals in 1988 (Tomlinson, 1995). Research at the time suggested that people imprisoned for fine default typically had committed offences of disorderly behaviour or driving without insurance, were unemployed and had insufficient funds to pay substantial fines (Jardine et al. 1986). More recently, high numbers of fine defaulters continued to be an issue, with fine defaults comprising 31 per cent of all committals into Northern Ireland prisons in 2012 (NIRSA, 2013). Since early 2013, the number of fine defaulters committed to prison has been temporary suspended following a judicial review challenging the arrangements for imposing and enforcing fines and confiscation orders (NIRSA, 2014). This suspension is believed to have contributed to a 33 per cent fall in the number of committals during 2013 (NIRSA, 2014).

The average daily prison population continued to decline in the 1990s from its peak in 1978 to closer to pre-Troubles levels, until 2001. This decrease is attributed to a reduction in the use of internment, ceasefires, release of those imprisoned for political offences and decreasing levels of politically motivated violence (McEvoy, 2001; Prison Review Team, 2011a, 2011b). The subsequent rise in the prison population from 2002 onwards, corresponds to a global increase in prison populations evident in 78 per cent of countries, including the Republic of Ireland (ICPS, 2013). The average daily prison population in 2013 was over double that of 2001 yet reamined substantially lower than it was in 1978 (approximately 35 per cent) (McEvoy, 2001; NISRA, 2014). This rise reflects a global trend towards an increased use of imprisonment but, despite this increase, both Northern Ireland and the Republic of Ireland remain in the bottom half of the world for their use of imprisonment (ICPS, 2013).

In addition, in 2004 females were again transferred to a different facility amid concerns about their treatment in Mourne House (Moore and Scraton, 2014). Imprisoned women were moved to Ash House in Hydebank Wood young offender centre and concerns remain about the appropriateness of this facility for women as they must share this site with young men (CJINI, 2013a; Moore and Scraton, 2014; Prison Review Team, 2011a, 2011b).

Life in Prison

Radical and critical criminologists argue that law and criminal justice institutions, such as prison, are used by capitalist societies to control the subordinated social classes and protect the interests of the powerful (Chambliss 1975; Taylor et al. 1973). Research on imprisonment in the Republic of Ireland and Northern Ireland reveals that it is those from the most deprived, disadvantaged areas and/or those that challenge the legitimacy of the state that tend to be imprisoned (see Convery and Moore, 2006; O'Mahony, 1997; Scraton and Moore, 2005, 2007 and McCullagh, *infra* on white collar and corporate crime). Further, these individuals are usually young men, experiencing more problems than the general population with addiction, mental health, reading, writing, employment, homelessness and learning difficulties (Convery and Moore, 2006; JCFJ, 2012; O'Mahony, 1997; Prison Review Team, 2011b; Scraton and Moore, 2005; Whitaker, 1986). This parallels international research which has found that it is predominately young socially and economically disadvantaged men who are imprisoned (Morgan and Liebling, 2007).

This poses a number of challenges for the maintenance of order and control, quality of life and rehabilitation needs of those imprisoned, which will be explored next in order to understand how the Republic of Ireland and Northern Ireland have attempted to respond to these issues, given the historical context and constraints shaping their penal systems.

Order and Control

Sparks *et al*. (1996) theorise that the key to maintaining order and control depends on the legitimacy of the prison system, the quality of staff-prisoner relationships and the manner in which security and risk management measures are implemented. However, the security and risk management measures that are adopted are linked to wider economic, political and social concerns (Drake, 2012).

Staff generally use their discretion when enforcing prison rules but this leaves them open to perceptions of bias and inconsistency so 'right' relations between those imprisoned and staff are important to avoid potential conflict (Liebling et al., 2011; Sykes, 1958). 'Right' relationships are respectful, have clear boundaries, are consistent, recognise the power imbalances in prison, address conflict rather than avoid it and explain deviations from the norm (Liebling et al., 2011). According to theories of procedural justice, authority is viewed as legitimate when individuals feel their 'voices' have been heard, rules are consistently and neutrally applied, that those in authority are sincerely concerned about their well-being and that they have been treated with dignity and respect (Jackson et al. 2010; Tyler and Huo, 2002).

While the quality and nature of interpersonal relations between those imprisoned and staff can vary depending on the individual, prison and offence, staff in the IPS have historically been been viewed as more willing to engage with and develop interactions with those imprisoned compared to the NIPS (NIPS, 2006). Relations between IPS staff and those imprisoned have been described by some as largely positive (Council of Europe, 2011; NIPS, 2006). Others, however, have expressed concerns about harassment, bullying, intimidation and discrimination (e.g. Inspector of Prisons, 2013, IPRT, 2014). These concerns raise questions about the accountability mechanisms within the IPS which will be explored later in the chapter.

Irish prison staff have been expected to ensure order through the exercise of discretion in their application of prison rules, knowing the names of those imprisoned, being considerate and fair in their dealings, keeping abreast of developments between those imprisoned, while simultaneously ensuring that they do not become too intimate with detainees (McGowan, 1980; NIPS, 2006). This was not always the case in Northern Ireland due to political issues, security threats against staff and their families, concerns about staff being conditioned by those imprisoned to reveal personal information (which could be used to threaten them or their families) and the possibility of becoming lax in their adherence to security procedures (Hennessey, 1984; McEvoy, 2001; Prison Review Team, 2011a).

In particular, threats and deliberate killings of Northern Ireland prison staff undermined the confidence and ability of staff to fully implement security procedures (especially dynamic security methods) and had a substantially negative impact on their psychological well-being (Bates-Gaston, 2003; Hennessy, 1984; Ramsbotham, 1998). Dynamic security methods involve using staff-prisoner interactions to identify, prevent and defuse risk (see Prison Review Team, 2011a). The deliberate killing of Northern Ireland prison staff peaked between 1976 and 1981 with 20 of the 31 prison staff murdered because of their profession killed during this time (NIPS, 2014). Brian Stack, a prison officer in the IPS was also murdered because of his profession in 1983 (McKittrick, 2013). As such, the Troubles contributed to fractious staff-prisoner relations, perceptions of illegitimacy and a lack of procedural justice in Norther Ireland prisons, as well as an over-reliance on physical security procedures to maintain order and control (CAJ, 2010; McEvoy, 2001; Prison Review Team, 2011a; Scraton and Moore, 2005, 2007). Physical security procedures were also used by the IPS but, where possible, a desire was expressed to use interpersonal relations to resolve tensions (McGowan, 1980; NIPS, 2006). It is worth noting though that prisons in the Republic of Ireland have not been exposed to the same level of scrutiny as prisons in Northern Ireland so less detailed information is

available on their operation. This increased level of scrutiny on Northern Ireland prisons can be attributed to the Troubles and its continuing legacy (Butler and Maruna, 2012; CAJ, 2010; McEvoy, 2001; Prison Review Team, 2011a)

Events in Northern Ireland resulted in a very risk aversive, security-focused regime with strict policies on staffing levels, excessive use of full body searching, predominantly security-focused staff training and problematic staff-prisoner and staff-management relations (Butler and Maurna, 2012; CAJ, 2010; McEvoy, 2001; Prison Review Team, 2011a, 2011b; Scraton and Moore, 2005, 2007). Order and control were largely maintained through extensive security procedures, risk management techniques and coercive displays of power rather than perceptions of legitimacy and/or staff-prisoner relationships (Butler and Maruna, 2012; CAJ, 2010; McEvoy, 2010; Prison Review Team, 2011a, 2011b).

Further, from 1972 to 1976, a political decision in Northern Ireland was taken to grant special category status to those imprisoned for political offences, resulting in these individuals being detained in separate compounds and left to run these compounds themselves (McEvoy, 2001). Staff-prisoner interactions were kept to a minimum and prison officials recognised the command structure of these groups and sought to negotiate with them for the smooth functioning of these facilities (McEvoy, 2001). This meant that prison staff could not impose their will on these compounds without considerable resources and the potential for serious disorder (McEvoy, 2001). Instead, order and control was maintained by self-policing (McEvoy, 2001). This experience of self-policing can be observed elsewhere (Dias and Salla, 2013; Lindegaard and Gear, 2014). Research in Brazil demonstrates how mass-incarceration, deterioration in living conditions and the failings of prison management led to the emergence of an organised prison group which began policing those imprisoned and, while there are many concerns about its operation, it did lead to a reduction in prison violence (Dias and Salla, 2013). Sparks et al. (1996) consider how some people imprisoned can be in a position of power over

others and use that power to achieve their own goals but the role of imprisoned groups in maintaining order was not explored in-depth. More thought needs to be given to the varying conditions under which such groups play a role in order maintenance, what role they should play and the potential consequences of these events. This is especially important given the variation in size, design, management and conditions of prison systems internationally.

Other factors such as the characteristics, drug use, vendettas and tensions between different people imprisoned, overcrowding, staff surveillance and training, prison design and the frustrations and deprivations associated with life in prison also play a significant role in maintaining order and control in the IPS and NIPS (Butler, 2010; JCFJ, 2012; McMorrow, 2014; Prison Review Team, 2011a, 2011b; Council of Europe, 2011; UNODC, 2013). This corresponds to international research which links drugs, prison architecture, prison frustrations and deprivations, staff supervision, individual characteristics, overcrowding and gang involvement to the occurrence of prison violence (Bottoms, 1999; Edgar et al, 2003; Sykes, 1958; Wortley, 2002). Additionally, these factors shape the quality of life and needs of those detained in prisons and these issues will be explored next.

Quality of Life and Rehabilitation Needs

As previously stated, those imprisoned are predominantly young men from the most disadvantaged communities with a higher prevalence of substance misuse, mental health issues, learning difficulties, unstable family backgrounds and employment and accommodation problems compared to the general population. Accordingly, those imprisoned in the Republic of Ireland and Northern Ireland need services and supports which will address their substance misuse, employment, educational, mental health, accommodation and offence-related needs (JCFJ, 2012; Inspector of Prisons, 2013; Prison Review Team, 2011a, 2011b).

While such services and supports are available in both the IPS and NIPS, places are limited as there is not the space, resourcing or capacity to accommodate all (Committee for Justice, 2014; JCFJ, 2012). In particular, concern has been expressed about the inadequate provision of mental health and drug addiction services for those imprisoned in the IPS and NIPS (Committee for Justice, 2014; JCFJ 2012; Prison Review Team, 2011a, 2011b; Scraton and Moore, 2005, 2007). This situation has been further exacerbated by overcrowding which has been a particular problem for the IPS and has become a problem in Maghaberry Prison in the NIPS (Committee of Justice, 2014; JCFJ, 2012).

In the IPS, overcrowding has been especially problematic for women with the governor of the Dóchas Centre resigning in 2010 because of the 'serious undermining' of her efforts to deliver a progressive regime in overcrowded conditions and the consistent failure of the IPS to address the issue (Rogan, 2010). The Dóchas Centre was originally designed as a progressive female prison, and was an example of best practice in Europe, but chronic overcrowding led to it being overloaded, resulting in increased tensions, self-harm, bullying, diminished services and fewer rehabilitative opportunities (Rogan, 2010). Significant overcrowding across the IPS has led to similar problems throughout the prison system and the 'doubling up' and sharing of prison cells that were originally designed for one (JCFJ, 2012; Rogan, 2011). Indeed, chronic overcrowding within the IPS has led to the inclusion of two-person occupancy prison cells as a formal part of Irish prison accommodation policy, in contravention of European Prison Rules, and despite sharing of prisoner cells contributing to violence, bullying, intimidation and homicide (JCFJ, 2012; McMorrow, 2014; Rogan, 2011).

In addition to the usual problems associated with overcrowding, the lack of in-cell sanitation in Irish prisons and to a lesser extent in the NIPS is particularly concerning (JCFJ, 2012). All imprisoned in Cork prison and some people imprisoned in Limerick and Mountjoy prisons do not have access to in-cell sanitation and must therefore 'slop out' (JCFJ, 2012).

'Slopping out' refers to the practice of people using a bucket/chamber pot to collect human waste while locked in their cells overnight and emptying these buckets/chamber pots the following morning (IPRT, 2011). Due to overcrowding in the IPS, some people must 'slop out' in front of others (IPRT, 2011). 'Slopping out' has been deemed 'inhuman and degrading treatment' for both staff and those imprisoned by the Irish Inspector of Prisons, UN Human Rights Committee and the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, especially when combined with overcrowding (IPRT, 2011). However, an Irish High Court judgment declared that while the conditions of 'slopping out' in the particular case appearing before it were unacceptable, it did not breach the person's rights under the Irish Constitution or the European Convention on Human Rights (*Mulligan v Governer of Portlaoise Prison*[1]). Nonetheless, the IPS is currently working towards refurbishing its prisons to remove the need to 'slop out' (JCFJ, 2013).

In the NIPS, a consistent problem that has negatively impacted on prison quality of life is the extent to which those imprisoned are locked in their cells for long periods of time and are not engaged in constructive activity (Amnesty International, 1978; CJINI, 2013a, 2013b; McEvoy, 2001, Prison Review Team, 2011a, 2011b; Scraton and Moore, 2005, 2007). Recent inspections reveal that while people should be out of their cell on average 9.5 hours, in practice some are only getting between 3 to 4 hours, with young people and women averaging between 5.2 to 7 hours (CJINI, 2013a, 2013b). These inspections revealed that in the previous 3 months for young men, 3000 out of cell hours were lost due to staff shortages while 800 hours had been lost for women on that basis (CJNI, 2013a, 2013b). These figures are likely to have worsened towards the end of 2014 as staff overtime was withdrawn and lock-down increased due to staff shortages and budget restrictions on overtime.[2] Reasons for these lock-downs have

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[1] [2010] IEHC 269
[2] The author is aware of these developments from conducting research in the NIPS during this time.

varied but include security concerns, higher staff-prisoner ratios compared to other high security prisons internationally, high staffing levels, the use of confinement as the primary means of dealing with protest, dissent or prison rule infractions, problematic staff-management relationships and resourcing constraints (Butler and Maruna, 2012; CAJ, 2010; Prison Review Team, 2011a, 2011b; Scraton and Moore, 2005, 2007).

Concerns about the use of lock-down and restricted out of cell time can also be found in the IPS, especially regarding the treatment of those on protection (JCFJ, 2012; Inspector of Prisons, 2013). People on protection are those who may be at risk of being harmed by others due to the nature of their offence, debts, gangland feuding or due to giving evidence in a court case (JCFJ, 2012). Because of concerns about their safety, some people on protection will be subjected to a restricted regime such that they are locked in their cell for 22 or 23 hours (IPS, 2014; JCFJ, 2012). Figures for October 2014 reveal that over one fifth of those on protection were on a restricted regime and subjected to 22 or 23 hour lock-down (IPS, 2014). Rather than being used as a temporary respite, this approach has been used as a solution in itself to safety concerns (Inspector of Prisons, 2013; IPRT, 2013; JCFJ, 2012).

These lengthy periods of lock-up negatively impact on quality of life as it limits participation in educational and vocational training, rehabilitative programmes and physical and social activities, contributing to mental health deterioration, self-harm and/or suicide (CAJ, 2010; CJNI, 2013a, 2013b; IPRT, 2013; JCFJ, 2012; Scraton and Moore, 2005, 2007). Such practices greatly hinder the ability of the IPS and NIPS to meet the needs of those imprisoned and negatively affects their well-being, human rights, quality of life and perceptions of organisational legitimacy and procedural justice (CAJ, 2010; IPRT, 2013; JCFJ, 2012; Prison Review Team, 2011a, 2011b).

The practice of locking people in their cells for lengthy periods of time is a technique used by many penal systems to deal with high security, problematic individuals (King, 2007; Ross, 2013). However, as in Republic of Ireland and Northern Ireland, international research reveals concerns about the potential for mental health deterioration and human rights abuses to occur (Arrigo and Bullock, 2008). Recently, Drake (2012) has argued that the focus on security in prison is misplaced as prisons have not become safer under a security regime but instead it has increased the pains and frustrations associated with imprisonment, hindered rehabilitative efforts and distracted us from wider ideological questions regarding the use of imprisonment.

There have also been concerns about the imprisonment of women and young people. In the IPS, the detention of young people in St Patrick's Institution was problematic due to a violation of human rights, bullying, violence, inadequate buildings, detention of under 18's with over 18's, drugs and insufficient service provision (e.g. IPRT, 2012; Ombudsman for Children, 2011; Seymour and Butler, 2008; UN, 2011). Since 2012, young men in St Patrick's Institution have been transferred to Children's Detention Centres and dedicated units in Wheatfield (adult male) prison, although young men aged 17 on remand awaiting trial are still detained there (IPRT, 2012; IPS, 2014). This continues to be an undesirable situation. There are also concerns about the detention of young people in Northern Ireland due to the disproportionate number of young people in care who end up in the prison system, over-use of custodial remand, poor regime, inadequate provision of services and use of lock-downs (CJINI, 2013b; Convery and Moore, 2006; Youth Justice Review, 2011).

The detention of females has been especially problematic in Northern Ireland due to the use of full body searching, violation of human rights, co-location of the female prison with young men, excessive security regime, use of lock-downs, inadequate service provision, intimidation and harassment by young men, poor health and mental health services, inappropriate techniques for dealing with self-harm and poor purposeful activity (see CJINI,

2013a, Scraton and Moore, 2005, 2007). In particular, the regime and activities experienced by women in the NIPS is restricted in comparison to men due to the co-location of Ash House with young men and this has led to great concerns about the ability of the prison to adequately meet the needs of imprisoned women and ensure their human rights are protected (see Moore and Scraton, 2014 and Quinlan, *infra* for a more detailed discussion of female imprisonment). It was proposed by the Prison Review Team (2011b) that a new female prison should be built but this has been delayed due to limited finances. There is also a need for a new prison to be built to detain females in Limerick prison and ongoing overcrowding in the Dóchas Centre continues to affect regime delivery and quality of life in the IPS (Inspector of Prisons, 2013). Unfortunately, as in Northern Ireland, women detained in Limerick prison experience a restricted regime due to sharing a prison site with adult men and a tendency to prioritise the needs of the adult males over females due to their reduced numbers (see Inspector of Prisons, 2011; Quinlan, 2008). While the facilities in the Dóchas Centre are specifically designed for women and were once an example of best practice, concerns about resourcing and overcrowding have reduced the quality of the regime and capacity of the centre to meet the rehabilitative needs of the females detained there (see JCFJ, 2012; Rogan, 2010). The issue of female imprisonment is explored in more depth in Quinlan (*infra*) in this Handbook.

Problems with overcrowding and delivery of rehabilitative programmes are not unique to Northern Ireland or the Republic of Ireland. The global increase in prison populations has not been matched by a growth in staffing or financial resources, resulting in less availability of services, supports and rehabilitative programmes, reduced ability to effectively segregate prisoner groups, concerns about safety and security, and increasing use of lock-downs (UNODC, 2013). This has not only reduced the quality of prison life for those imprisoned but also negatively impacted on working conditions of prison staff (UNODC, 2013).

These issues are recognised by both the IPS and NIPS and steps have been taken to try to address these concerns. Recent innovations to improve the quality of life and provision of services in the NIPS include: the adoption of 'drug-free' landings; use of step-down facilities and working out schemes to help those imprisoned reintegrate into society before release; use of restorative justice to allow people to make amends for their crimes and assist the healing process for victims; a 'Family Matters' landing whereby the focus is on improving relationships with families to prevent relationship breakdown, discourage the intergenerational transmission of crime and promote desistance; as well as the transformation of Hydebank Wood young offender centre into a 'secure college' emphasising educational and vocational training as key for the rehabilitation and desistance process. In the IPS, similar innovations are evident such as: 'drug-free' units in most prisons; step-down and open prison facilities; use of working out schemes to help people reintegrate into society; the community return programme whereby prisoners can earn early temporary release in return for supervised community service; incorporation of restorative justice practices to handle disagreements between those imprisoned and/or staff; and the red cross volunteer project which uses peer-to-peer learning to improve community health, hygiene awareness and first aid amongst those imprisoned. These are just some of the activities undertaken in both jurisdictions and remnants of the 'Irish System' continue to be evident in this work through the use of incentive programmes, individualised schemes, focus on rehabilitation, education and behaviour modification as well as the use of early release, open and semi-open prisons. However, these activities remain restricted by resourcing and capacity issues.

Furthermore, managing the needs of those imprisoned can be difficult for prison staff as they attempt to balance order, control and security with 'right' prisoner-staff relationships in a context of an increasing population and reduced resources. These issues are evident amongst Republic of Ireland and Northern Ireland staff, with high levels of absenteeism, mental

health issues, stress, alienation, feelings of under-appreciation, fears about safety, dissatisfaction with management and insufficient training (Bates-Gaston, 2003; Butler and Maruna, 2012; CAJ, 2010; Clarke, 2014). These experiences have been magnified in Northern Ireland with staff experiencing particularly challenging working conditions, increases in suicide and ill-health, intimidation, threats, murder as well as feelings of betrayal, alienation and dissatisfaction with prison management and political actors as a result of events and decisions associated with the Troubles (Bates-Gaston, 2003; McEvoy, 2001). In addition, as threats against staff predominately originated from Nationalist groups, this negatively impacted on relationships between Catholic detainees and staff, contributing to concerns about equality and an over-reliance on physical security techniques (Butler and Maruna, 2012, Prison Review Team, 2011a, 2011b). The review of the NIPS in 2011 sought to address this issue by changing its culture. This cultural change was to be achieved through a redundancy package for older staff and a new recruitment campaign (amongst other changes), although the success of this approach has been questioned as half of the new recruits have either left the NIPS or are on long-term sick leave (McMahon, 2014). Issues of staff alienation, dissatisfaction with management, staff safety, well-being and adequate resources are also problematic for the IPS (Clarke, 2014; POA, 2014). The IPS is attempting to address some of these concerns through its 'Dignity at Work' strategy but to date tensions remain with 93 per cent of Prisoner Officer Association members voting for industrial action in March 2015 (POA, 2015).

There are many lessons that can be learnt from these experiences. For example, prison and political policies can have long-term effects on order, control and everyday life which cannot be easily overcome, despite changes to these policies, unless their lingering effects are addressed. Staff also need to be supported in moving from a custodial model of engagement to one that requires more interaction and support of those imprisoned compared to previously by listening to their concerns and anxieties and dealing with these in a constructive manner to

avoid potentially negative consequences for staff well-being or performance at work. Research reveals that Northern Ireland staff did not feel supported by management and were expected to quickly move from a position of non-engagement with those imprisoned, on account of conditioning and fears for their personal safety, to one of engagement (Bates-Gaston, 2003; Butler and Maurna, 2012; McAloney, 2011). Many staff reported feeling scapegoated by management for failing to make this transition which left them further disengaged and alienated (Butler and Maurna, 2012; McAloney, 2011; Prison Review Team, 2011a, 2011b). Indeed, the introduction of a redundancy package as part of the reform programme reinforced the view that older staff were perceived as the main barrier to change, which staff felt was unfair, did not reflect the failings of management or political policies and did not recognise the 'jailcraft' expertise of older staff (Butler and Maura, 2012; Kelly, forthcoming). By focusing on staff, the reform agenda forgot that staff-prisoner relationships are a two way process, also influenced by the views of those imprisoned about staff and willingness to engage with them. In Northern Ireland, even before staff engage with those imprisoned, memories/views about the treatment of those imprisoned during the Troubles continue to shape their willingness to engage with staff and their perceptions of legitimacy and fairness of the prison system (Butler and Maruna, 2012). As such, attempts to reform penal culture should not only focus on staff but also on the views, beliefs and expectations of those imprisoned if staff-prisoner interactions and quality of life are to be improved.

Prison Accountability

Similar to other countries, there have been campaigns in the Republic of Ireland and Northern Ireland for government to rethink how and when we use imprisonment (CAJ, 2010; JCFJ, 2012; O'Donnell, 2008; Rogan, 2011; Scraton and Moore, 2005, 2007). However, these arguments

have not gripped policymakers, politicians or public attention as hoped, as demonstrated through the continued rise in the prison population, despite relatively stable or decreasing crime rates.

Efforts are made to hold the IPS and NIPS to account for prison conditions but these endeavours are hampered by the inability of existing external accountability mechanisms to compel change. In the IPS, a recent review of penal policy reiterated the importance of independent oversight but there appears to be little change to existing mechanisms other than suggesting that a 'Consultative Council' examine the issue (Department of Justice and Equality, 2014). In Northern Ireland, the need for independent oversight has been recognised due to a failure by the NIPS to action many recommendations put forward by external accountability mechanisms. To address this issue, the 2011 review of the NIPS recommended that an oversight group directly answerable to a Justice Committee be established and that additional resources should be given to the Criminal Justice Inspectorate Northern Ireland to carry out independent monitoring of outcomes (Prison Review Team, 2011b).

Existing accountability mechanisms include internal and external mechanisms. Internal accountability methods include internal disciplinary procedures, data monitoring, audits, reviews, prisoner complaints processes, performance management reviews, performance targets, codes of practice and procedures. While recommendations arising from these processes may be more likely to be actioned as they involve internal agencies identifying issues within the organisation, this information is not always publicly available. This can contribute to recommendations being neglected in favour of other organisational outcomes and/or issues, and such neglect may go unchallenged as existing practices are ingrained in the organisational culture. Examples can be found in the IPS and NIPS's over-reliance on lock-downs, practices surrounding self-harm, deaths in custody, full body searching, bullying and monitoring of

equality issues (e.g. Barry, 2011, CAJ, 2010; Inspector of Prisons, 2013; JCFJ, 2012; Prison Review Team 2011a, 2011b; Scraton and Moore, 2005, 2007).

While the internal mechanisms in both the IPS and NIPS are similar, there are some differences that are worthy of note. In particular, serious concerns about the IPS prison complaints process have been raised by the Inspector of Prisons (2013) and Council of Europe (2011), with these organisations arguing that the IPS complaints process was not meeting its international obligations for transparency or accountability. While the process has been reviewed and amended based on the Inspector of Prisons (2013) recommendations, concerns remain about its operation with prison staff in particular expressing disquiet about its implementation (see POA, 2014). Another key difference between the effectiveness of internal accountability mechanisms in the IPS and NIPS is the use of Freedom of Information requests to obtain such information. Due to restrictions on Freedom of Information requests in the Republic of Ireland, it is more difficult to obtain information about the performance of the IPS as measured by internal accountability mechanisms compared to the NIPS, wherein reasonable requests for such information are facilitated at no cost to the public. This means that information about the NIPS performance as measured on internal accountability mechanisms can be, and frequently is, subject to public scrutiny through Freedom of Information requests more so than the IPS performance in the Republic of Ireland.

Independent external accountability mechanisms are also an important part of holding prisons to account as they challenge assumed working practices and priorities. Examples of external accountability mechanisms include a Prisoner Ombudsman, inspectors, freedom of information requests, Justice Committees, the courts, politicians, media, academic research, prison visiting committees, community organisations, domestic and international law, inquiries, committees or investigations, and international inspection agencies such as the European Committee for the Prevent of Torture and Inhumane and Degrading Treatment

amongst others (although there is some doubt about the level of independence of some due to their connection to Justice Departments).

Differences in the use of external accountability mechanisms are also evident between Northern Ireland and the Republic of Ireland. For example, as of 2015 the Republic of Ireland does not have a Prisoner Ombudsman while the Prisoner Ombudsman for Northern Ireland (PONI) was established in 2005. The PONI investigates prisoner and visitor complaints (although they must first go through the internal complaints process before they are eligible for PONI consideration) and deaths in custody. Numerous concerns have been raised about the adequacy of investigations into deaths in custody in the Republic of Ireland (see Barry, 2011; Inspector of Prisons, 2013; Rogan, 2011). Attempts have been made to address this by increasing the Inspector of Prisons remit to investigate deaths in custody since 2012 and the Inspector of Prisons (2014) has concluded that this process, combined with investigations by the Irish police and the Coroner's Court, is sufficient for the Republic of Ireland to meet its international obligations in this regard (Inspector of Prisons, 2014). Yet, concerns remain about this process given the resourcing of the Inspector of Prisons office. In contrast, imprisonment in Northern Ireland has been subjected to numerous external accountability checks due to the Troubles and the international attention focused on the handling of events associated with the demands by some for political status as well as the use of ligation by those imprisoned (see CAJ, 2010; McEvoy, 2001; Prison Review Team, 2011a, 2011b). However, despite this increased external scrutiny, Northern Ireland has been slow to respond to and/or action recommendations put forward by external mechanisms, highlighting that while external mechanisms can use public exposure to motivate action, they cannot force change. Only government action or court rulings can force change and these mechanisms can be slow, weak and reluctant to intervene (Independent Review Group, 2014).

Accordingly, the majority of prison accountability mechanisms operate on a 'name and shame' policy, hoping to encourage change by publically highlighting failings. Unfortunately, international research on name and shame as an enforcement strategy highlights its ineffectiveness due the potential to be labelled as anti-government propaganda by those with vested interests, a tendency to prompt minor reforms which are offset by other abuses and/or a lack of governmental capacity to drive change (Hafner-Burton, 2008). In Northern Ireland and the Republic of Ireland, criticisms surrounding the treatment of those imprisoned for political reasons were sometimes dismissed as propaganda, subversive, ill-informed or politically biased (MacBridge, 1982; McEvoy, 2001). In particular, concerns about religious bias have led to defensive reactions whereby the NIPS have denied variations in treatment by religion, despite statistics indicating a tendency for Protestants to experience less disciplinary processes and a more enhanced regime compared to Catholics (Butler and Maurna, 2012; Prison Review Team, 2011b). As such, minimising defensive reactions to criticism is important for ensuring that problems are acknowledged and appropriate action taken. Further, a combination of internal and external accountability mechanisms, with the power to compel change when needed, is required to ensure our prisons are sufficiently held to account.

Conclusion

The emerging picture from this chapter indicates that the modern penal systems of the Republic of Ireland and Northern Ireland are similar to other developed, Western, democratic jurisdictions in terms of the management of those imprisoned, prison regimes and accountability mechanisms. However, there are certain notable features which hold important lessons internationally. For example, the 'Irish System' played a major role in shaping the penal philosophies and administration of prison systems internationally by emphasising

individualised schemes, the use of incentive schemes, parole, open and semi-open prison conditions as well as behaviour modification programmes, amongst others (Dooley, 2003; Heffernan, 2004). In addition, research on political imprisonment in Northern Ireland has provided important insights into resistance strategies that can be adopted in prison and the role of prisoner groups in order maintenance, while the potential for political imprisonment to distract from and impede penal reform can be seen in both jurisdictions. These experiences may help to inform theoretical developments and prison practices internationally in these areas, while both the IPS and NIPS continue to learn from international evidence based best practice which is applicable to an Irish and Northern Ireland context.

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