

# Redefining Standards Downwards: The Deterioration in Basic Living Conditions in Irish Prisons and the Failure of Policy

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## Introduction

The phrase ‘redefining standards’ might be assumed to imply a commitment to higher, more rigorous, standards, along with the more effective enforcement of such standards. In the case of the Irish prison system, however, we have seen over the past two decades alarming examples of where standards have been re-defined *downwards*, so that, for a majority of those detained in our prisons, basic living conditions have significantly deteriorated and the experience of being in prison has become even more burdensome and damaging.

## The Whitaker Standards for ‘Basic Living Conditions’

Only once in the history of the Irish State has the Government commissioned a comprehensive investigation into the penal system as a whole. This resulted in the *Report of the Committee of Inquiry into the Penal System*, which was published in 1985 and is commonly known as the ‘Whitaker Report’, after the Committee’s chairman, T. K. Whitaker.<sup>1</sup>

The Whitaker Committee was scathing in its criticism of the Irish penal system, and of its management by the Department of Justice. It proposed radical changes in thinking and policy – reflected in its advocacy of three key underlying principles: ‘minimum use of custody, minimum use of security and normalisation of prison life’.<sup>2</sup>

The Committee set out in some detail what it called the ‘basic living conditions’ which should be provided for those held in prison.<sup>3</sup> These included: a balanced diet, normal clothing, a clean and hygienic environment, physical and mental healthcare comparable to that available in society as a whole, care of children born in prison, and freedom to practice religion. In the view of the Committee, ‘basic living conditions in prisons should correspond broadly to those available to persons with an average disposable income’.<sup>4</sup>

In this article, I highlight five particular ‘basic living conditions’ listed by the Whitaker Committee which seem to me to be of critical

importance. These five conditions are defined in quite tangible ways by Whitaker, and so are amenable to monitoring and assessment.

The Committee’s report stipulated that prisoners should have:

‘Normally (and always where a prisoner so desires) private sleeping accommodation in a single cell.’

‘Ready access to toilet facilities at all times.’

‘Much more out-of-cell time (at least 12 hours).’

‘Flexible access to participation in ordered activity, such as education and work, to recreation facilities and to welfare services.’

‘Liberal visiting arrangements with minimum of supervision (especially of family visits) and maximum allowance of personal contact.’<sup>5</sup>

Such key prescriptions for our prison system, and the philosophy underpinning them, were very much in tune with mainstream European thinking on penal matters, as can be seen by examining the European Prison Rules, which were agreed by the countries of the Council of Europe in 1987.<sup>6</sup> (These Rules were revised in 2006.<sup>7</sup>)

## What’s the Story Now?

If ‘normalisation’ is a cornerstone of penal policy, and living conditions in prison are to be related to those ‘on the outside’, then one would expect basic conditions in prisons to improve over time, in line with improvements in living conditions in society as a whole. In some ways this *has* happened: for example, food in prisons is much better now than it was thirty years ago. However, in many instances, living conditions in Irish prisons are now far worse than those so severely criticised by the Whitaker Committee in 1985. We can see this by examining the situation regarding the five key conditions listed above.

## Single Cells

When Whitaker reported, nearly all those held in prison were in single cells, although the report noted that a limited degree of ‘doubling up’ had

begun in Arbour Hill Prison and in Cork Prison. However, the Whitaker Committee was insistent that people in prison were entitled to single cells. In the years since the Committee reported, Irish prison authorities have abandoned this basic condition in both policy and practice. Today, *60 per cent of prisoners must share cells*,<sup>8</sup> and this sub-standard arrangement is aggravated by excessive lock-up times and inappropriate sanitation.

### **Toilet Facilities**

The Whitaker Committee saw it as elementary that those in prison should have 'ready access to toilet facilities at all times'. From the general tenor of its report, it is reasonable to assume that the Committee envisaged *proper toilets* that could be *used in private*. This is not how things are today. Some 20 per cent of all those in prison in Ireland (about 850 men) are required to 'slop out', i.e., urinate and defecate in buckets or other containers that must then be emptied elsewhere at unlock time.

The Irish Prison Service, in its *Three Year Strategic Plan 2012–2015*, has committed itself to the provision of in-cell sanitation in all locked cells, and thus to the ending of slopping out.<sup>9</sup> This is obviously a very welcome development. However, while the situation regarding slopping out is well-known, and has been widely condemned, there is much less public awareness of the humiliating and degrading arrangements that are the lot of a much greater number of people in prison. In the words of the Minister for Justice and Equality, 1,885 prisoners are 'required to use normal toilet facilities in the presence of others'.<sup>10</sup> This amounts to about 44 per cent of the prison population. This situation arises, of course, from the prevalence of shared cells, very few of which have separated toilets. Something of this reality is conveyed by the Inspector of Prisons, who describes the implications for women in Limerick Prison of having to share a cell that is less than nine square metres:

*The toilets, while screened from the door, are not otherwise screened. The toilets are not covered. I have observed food trays and towels being used as toilet covers. When there is more than one prisoner in a cell a prisoner attending to her sanitary or washing requirements does so within feet and in full view of her fellow prisoner. The situation is far worse when there are three prisoners in a cell.*<sup>11</sup>

We can say, therefore, that elementary standards of dignity and decency (and often hygiene) are affronted by the sanitary arrangements currently in

place for a majority of people in prison in Ireland today: *two out of three are required to either 'slop out', or attend to sanitary requirements right in front of others, or both.*

### **Out-of-Cell Time**

The effects of both cell-sharing and undignified sanitary arrangements are greatly worsened by the extremely lengthy lock-up times imposed on the vast majority of those in prison in Ireland. At the time the Whitaker Committee reported, most prisoners were locked up for sixteen hours a day. The Committee saw this as 'excessive', and said that people in prison should be out of their cells for 'at least 12 hours' each day.<sup>12</sup>

However, for the great majority of prisoners this 12-hour minimum out-of-cell time was not to be and matters have, in fact, worsened rather than improved. The eight hours out-of-cell time, which had been the norm, has been eroded: now, out-of-cell time is only six or seven hours, in practice. Moreover, a significant number of people in prison experience an especially severe degree of confinement, being locked up in cells for over 18 hours, and in some cases for up to 23 hours, a day. The majority of these are 'protection prisoners', who are considered to be under threat or at risk were they to remain among the general population of the prison.<sup>13</sup> On 21 November 2011, 364 prisoners were locked up in excess of 18 hours a day, 178 of whom were locked up for 23 hours or more.<sup>14</sup>

### **Access to Structured Activities**

The Whitaker Committee wanted all people detained in prison to have access to a full day's structured activity (such as education, work, training, welfare and psychology services), so as to constructively use their time and as part of 'personal development' programmes. While staffing and facilities for some of these services have expanded since 1985, the increases have not, in general, matched the enormous surge in the prison population. In addition, lengthier lock-up times, an inordinate emphasis on 'security' and, in particular, severe segregation in most prisons have seriously hampered access to these services for great numbers of people in prison.<sup>15</sup>

### **Contact with Family and Friends**

The Whitaker Committee saw no reason why most men and women in prison should not have reasonable means of keeping in contact with those close to them on the outside. This included

‘freedom to write and receive letters without censorship’ and to make telephone calls.<sup>16</sup> (Were the Committee reporting today, it would presumably include access to email contact in its list.) The reality is, however, that the level of contact with the outside world envisaged by the Committee does not happen in Irish prisons.

Whitaker also envisaged ‘liberal visiting arrangements’ with ‘maximum allowance of personal contact’, especially for family visits. Again, the reality today is very different.

The inadequacy of the visiting arrangements in many Irish prisons is conveyed by the Report of the Committee for the Prevention of Torture (CPT) following its visit to Ireland in 2010. The Report said in reference to Cork Prison:

*The visiting arrangements in Cork Prison are totally unsuitable. Up to 12 prisoners were placed shoulder to shoulder on one side of a wide table running the length of the room communicating with two or three visitors each on the other side of the table. The table was fitted with glass partition (some 15cm high) and conversations were conducted with raised voices as visitors and prisoners competed to be heard; the resulting cacophony of sound can easily be imagined. Prisoners were forbidden to have any physical contact with their visitors, including with children. Those who defied the ban were subject to a disciplinary punishment. Such a systematic ban on physical contact between prisoners and their families, in particular their children, is unreasonable, given the search procedures in place.<sup>17</sup>*

In their response to this criticism, the Irish authorities stated baldly: ‘the Irish Prison Service does not intend to amend the policy with regard to screened visits’.<sup>18</sup>

### **The Principle of Single Cell Accommodation**

John Lonergan, former Governor of Mountjoy Prison, makes the case for the importance of single cell accommodation when speaking about the detention of women in the Dóchas Centre:

*Doubling up in single rooms seriously erodes the values promoted in the centre – women having privacy, their own space and above all personal safety. If you are in prison and you have to share accommodation with another prisoner, you are*

*never on your own, not for a minute. People crack up when they don’t have their own space.<sup>19</sup>*

The need to have one’s own safe space applies equally to male prisoners, as I’m sure John Lonergan would agree. Requiring people in prison to share cells degrades individuals and fosters stress, violence and drug abuse. Peter McVerry speaks of personally knowing over forty young men who acquired a drug habit in prison, directly as a result of being forced to share cells with drug-users.<sup>20</sup>

Problematic prison conditions tend to reinforce each other. It is for reasons such as these, as well as regard for people’s dignity and health, that Whitaker and the Council of Europe insist on single cells. The Department of Justice also previously aspired to having single cells for all – at least up until the mid-1990s. By that time, about 28 per cent of those in prison were obliged to share cells.<sup>21</sup> The Department’s 1994 policy document, *The Management of Offenders*, spoke of the need to provide about 300 additional places to eliminate the ‘doubling up’ that was then occurring, and it envisaged a 50 per cent reduction in this doubling up as a ‘defensible five year target’.<sup>22</sup> Clearly, at that point the Department still subscribed to the principle of single cell accommodation.

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However, the aspiration to this basic standard was abandoned by prison authorities with the construction in the late 1990s of Cloverhill Prison. In its Report for 1999 and 2000, the Irish Prison Service refers to the opening of this, ‘the State’s first-ever dedicated facility for remand prisoners’, and states that: ‘The Prison has accommodation for approx. 400 prisoners *in a combination of single, double and triple cells* (emphasis added).<sup>23</sup> Since then, the assumption that doubling-up is acceptable has been a feature of most prison planning, as is evident in new facilities in Castlerea, Wheatfield, Midlands and Limerick prisons, and Ministers for Justice and the Irish Prison Service now routinely speak of prison ‘spaces’ rather than cells.



In the official announcement at the end of February 2012 of a new unit to be built on a site adjacent to the existing Cork Prison, the Minister for Justice and Equality referred to the provision of ‘a new, modern 250 space prison’ which would ‘eliminate the practice of prisoners having to slop out [and] provide adequate and suitable accommodation for all prisoners in accordance with our national and international obligations ...’.<sup>24</sup>

The official announcement gave no indication that the new prison would have as the norm single-cell accommodation – as would be required to meet international standards. On the contrary, the announcement stated that the decision regarding Cork Prison was based on a report on options for replacing or redeveloping the prison, prepared for the Minister by the Irish Prison Service, which suggested that the most feasible option would be the construction of a 150 cell prison near the existing building.<sup>25</sup> In other words, the proposed ‘new, modern’ Cork Prison will, it seems, provide single-cell accommodation for, at most, 50 of the 250 people to be detained there. Thus have sub-standard arrangements become endemic in the Irish prison system.

### Reports of the Inspector of Prisons

The current Inspector of Prisons, Judge Michael Reilly, has made some trenchant and incisive criticisms of the prison system. He has been especially critical of, for example, overcrowding, slopping out, and the inadequacy of complaint and investigation procedures.

However, in outlining the specific standards which the Irish prison system should be expected to meet, the Inspector of Prison has in some instances compromised on the clear and basic standards set out by the Council of Europe (which were reflected in the Whitaker Committee Report). This is of all the more concern because both the Irish Prison Service and the Minister for Justice have been citing these lower standards to justify their policies, while ignoring the higher standards of the Council of Europe (in, for example, the European Prison Rules). It must be remembered that these Council of Europe standards are *minimum* requirements, intended to have application in a large number of countries, with varying levels of economic development.

In particular, reports of the Inspector of Prisons have set significantly lower standards for prisons in relation to the first three of the five Whitaker ‘basic

living conditions’ – that is, single cell occupancy, sanitation arrangements, and the time those in prison should have out of their cells.

In addition, the standards set out have little to say about another Whitaker condition, detailed above, pertaining to visiting arrangements and the need to maintain family contact.



Cell, Mountjoy Prison

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Furthermore, while reports by the Inspector of Prisons have been critical of a tendency to increase the number of spaces provided in prisons without a corresponding increase in services and activity, they have not given sufficient attention to the fundamental problem that the pattern of prison development in Ireland in recent years has resulted in a prison system now dominated by large prisons, including several accommodating over 600 people. There are serious negative implications arising from such a pattern of development, including an inevitable tendency to a ‘one-size-fits-all’ approach to security, and a need to provide for the segregation of different groups, the consequences of which include the likelihood of curtailed access to structured activity such as education and work training.<sup>26</sup>

Some specific instances of where the proposals of the Inspector of Prisons appear to go below the standards agreed by the Council of Europe will now be explored, drawing mainly on the substantial document, *The Irish Prison Population – An Examination of Duties and Obligations Owed to Prisoners*, issued by the Office of the Inspector in 2010.<sup>27</sup>

### Shared Cells

Perhaps it is understandable that the Inspector of

Prisons, facing the appalling conditions in many Irish prisons, would feel compelled to lower standards and set more reachable targets for the authorities on some aspects of imprisonment – understandable, but hardly acceptable, especially in relation to the critical issue of single cell accommodation.

The *Duties and Obligations* document presents a sharp analysis of overcrowding, and correctly defines this phenomenon in a way that includes threats to safety, and the absence of appropriate services and regime. In relation to cell accommodation, however, it states that:

*As a general principle I have concluded that best practice in Ireland should be that cell sizes should conform to the following sizes:-*

*(a) For single occupancy – 7m<sup>2</sup> with a minimum of 2m between walls. Such cells should have in-cell sanitation. It would be preferable to have the sanitary facilities screened.*

*(b) For each additional prisoner – an additional 4m<sup>2</sup> (Example: 2 prisoners – 11m<sup>2</sup>, 3 prisoners – 15m<sup>2</sup>, 4 prisoners 19m<sup>2</sup>).<sup>28</sup>*

An illustration of just how severely cramped are such spaces is provided in an article by Patrick Hume, in which he contrasts the standards proposed above with the minimum floor-space requirements for children in pre-schools. He notes that the recommended extra space for an additional adult confined to a cell for most of his or her waking hours is *less* than what regulations require for an additional child present in a pre-school for a few hours.<sup>29</sup>

The *Duties and Obligations* document states that, in reaching conclusions regarding minimum cell size, account has been taken of, *inter alia*, the Irish Constitution and domestic law, international instruments and the European Prison Rules.<sup>30</sup> Reference is made to 18.1 of the European Prison Rules, which sets out a principle that prison accommodation ‘shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene’. However, no reference is made to 18.5, 18.6 and 18.7 of the European Prison Rules, which are much more specific and tangible:

*18.5 Prisoners shall normally be accommodated during the night in individual cells except*

*where it is preferable for them to share sleeping accommodation.*

*18.6 Accommodation shall only be shared if it is suitable for this purpose and shall be occupied by prisoners suitable to associate with each other.*

*18.7 As far as possible, prisoners shall be given a choice before being required to share sleeping accommodation.<sup>31</sup>*

Thus, the European Prison Rules, like the report of the Whitaker Committee, envisage single cells being the norm, with departure from this standard only allowable in what would be exceptional circumstances beneficial to the person in prison. The Rules then add three other qualifications which would further limit such exceptions. The omission of reference to Rules 18.5, 18.6 and 18.7 in the *Duties and Obligations* document seems very strange indeed.

Even stranger is that the same omission occurs in the report of the Thornton Hall Project Review Group (2011), because that report purports to present a very full exposition of the European Prison Rules. Like the Inspector of Prisons, the Review Group quotes 18.1 of the Rules – the general principle relating to accommodation – but then neglects to quote further and makes no mention of the single cell requirement that is clearly set out in 18.5.<sup>32</sup> Neither does the Review Group make any reference whatsoever to the Whitaker Report. It is not surprising, then, that the Group came up with proposals that would result in 80 per cent cell-sharing in the main part of Thornton Hall, and 86 per cent cell-sharing in the main part of Kilworth, Co. Cork, if the building of these prisons were to proceed in line with its recommendations.<sup>33</sup>

### ***Shared Sanitary Arrangements***

In Brian Keenan’s extraordinary book, *An Evil Cradling*, in which he tells how he was kidnapped in Beirut and held captive with John McCarthy, he vividly describes the severe unpleasantness and embarrassment they both endured when their guards failed to turn up *on one occasion* to allow them out of their cell to use a toilet.<sup>34</sup> Yet this, in one form or another, is the situation facing *most* prisoners in Ireland *every day*.

The Inspector of Prisons does recognise – and condemn – the inappropriateness of people ‘... attending to ... sanitary ... requirements ... within feet and in full view’ of each other, as can be seen

in his comment on Limerick Prison, quoted earlier. However, in general, while his reports vividly and vehemently criticise slopping out, they essentially ignore the more widespread problem of people in prison being ‘required to use normal toilet facilities in the presence of others’.<sup>35</sup>

Given the architecture of most Irish prisons, an acceptance of cell-sharing means having to accept inadequate sanitary arrangements. Those who sleep in the same cells, and sit about together in the same confined space for the greater part of the day, have no choice but to use the toilet in front of each other. The ‘screens’ around toilets in a few locations, to which reference is made in some of the reports of the Inspector of Prisons, are of little benefit.

People do not live in toilets. We do not eat our meals there, or study or watch TV there. Even where there is only one person in a cell or room, the toilet facility should be separate. Only 40 per cent of all who are in prison in Ireland are fortunate enough to have single cell accommodation and of those very few have their toilet facility separated. These few are in locations such as the Dóchas Centre (and only a minority there now have single rooms) or in the new accommodation sections of Loughan House or Shelton Abbey.

#### ***‘The greater part of the day’***

In stating that men and women in prison should be out of their cells for ‘at least 12 hours’ each day, the Whitaker Committee set a very clear-cut standard, although one well in advance of conditions at the time – and, as already noted, even further in advance of arrangements today. This standard, however, is eminently achievable – for example, 12 to 14 hours out-of-cell time is currently the norm for sentenced prisoners in Nordic countries.<sup>36</sup>

With such unlock time, it is then possible, even in high-security prisons in countries such as Denmark, Finland and Norway, to enable those in prison to engage in a normal, full day of work or education, or both. This is generally not possible in Irish prisons today.<sup>37</sup> Such unlock periods also support ‘normalisation’ in that they can facilitate those in prison carrying out their own daily tasks such as cooking and cleaning. However, given the sub-standard arrangements in cells in Ireland, with most of those held in prison sharing accommodation and sanitation being very inappropriate, the most obvious benefit of more out-of-cell time would be to enable those in prison to get away from these conditions for longer periods.

In discussing regimes in general, the *Duties and Obligations* document cites the stipulation of the European Prison Rules that all prisoners should be offered ‘a balanced programme of activities’, and sufficient time out of cells for ‘an adequate level of human and social interaction’.<sup>38</sup> Reference is made to the concept, expressed in the European Prison Rules, that ‘imprisonment is by the deprivation of liberty a punishment in itself’ so that regimes should not ‘aggravate the suffering inherent in imprisonment’.<sup>39</sup>

Furthermore, the document cites a *General Report* by the Committee for the Prevention of Torture (CPT) which argues that remand prisoners should have ‘the greater part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature’, with regimes for those sentenced being ‘even more favourable’.<sup>40</sup> Clearly, Ireland falls short of these standards in relation to the great majority of remand and sentenced prisoners.

In the *Duties and Obligations* document, a chapter is devoted to describing in detail the conditions in each of the prisons in Ireland, and in these chapters there are several references to people in prison needing to be ‘out of the cells for most of the day’, or out of their cells ‘during the greater part of the day’ (see, for example, par. 8.15 and par. 15.6). At first sight, these references might be taken as indicating support for the Whitaker standard of 12 hours-plus out-of-cell time.

However, it becomes clear from the context, and the reality of the kind of regime which operates in most of the prisons being described, that the concept of ‘the greater part’ or ‘most of’ the day envisaged here is not that envisaged in the Whitaker Report, but something much weaker and more nebulous, probably not even the major part of the waking day or of day-light hours. It appears that the current norm of about seven hours unlock time might even satisfy the criteria of the *Duties and Obligations* document. This is a far cry from what Whitaker proposed, and another disturbing example of redefining standards downwards.

#### **Conclusion: Reversing the Punitive Turn**

The deterioration in prison conditions in Ireland in the past two decades, and the corresponding decline in accepted standards, should be seen in a wider context. There has been a severe hardening of attitude and policy in political and administrative fields in relation to penal matters. This has been a trend in most English-speaking countries, and is



variously described as part of a ‘culture of control’ or as a ‘new punitiveness’.<sup>41</sup>

A ‘punitive turn’ is obvious in Ireland since the mid-1990s, evident by a more than doubling of the number of people held in prison, by the worsened conditions described in this article, and by more excluding and demonising attitudes towards those who fall foul of the law and are sent to prison.<sup>42</sup>

The overcrowding, the poor conditions and the negative attitudes to the men and women who are in prison are all interlinked, and tend to reinforce each other. Likewise, improved conditions are most likely to be achieved by reversing the incarceration binge of recent times (through more enlightened legislation and sentencing, and the development of alternatives to custody) *and* through a change in public and political attitudes, so that those in prison are recognised as citizens, as members of the community, as ‘whole persons’.

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When it set out ‘basic living conditions’ for those held in prison, the Whitaker Committee did so in a context where it also proposed serious efforts to reduce the numbers held in prison, and where it recognised the humanity, the rights and the social situations of people in prison. The policies and attitudes in relation to prisons and prisoners which are prevalent in Ireland today go very much against the grain of what was proposed in the Whitaker Report.

It is not surprising then that various Ministers for Justice and the Department of Justice have ignored this official government inquiry. It is more surprising, however, that bodies having a role in shaping and overseeing prison policy and practice, such as the Inspector of Prisons and the Thornton Hall Review Group, have so neglected the report.

The Whitaker Report, its core philosophy, and the clear standards it set out for operating prisons, merits revisiting. It offers far wiser guidance than is found in official thinking in recent times.

At the time of its publication, the Report had only

a very small print run and was soon unavailable; it has never been reprinted. These are very good reasons we should seek it out in obscure corners of libraries, and pay close attention to the policies and standards it outlined. In particular, the ‘basic living conditions’ it proposed are essential to underpin for citizens who are imprisoned elementary levels of dignity, privacy, safety, health, purposeful activity and contact with the outside world.

## Notes

1. Committee of Inquiry into the Penal System, *Report of the Committee of Inquiry into the Penal System* (Whitaker Report), Dublin: Stationery Office, 1985.
2. *Ibid.*, p. 90.
3. *Ibid.* See pp. 13–14 and p. 61 for discussion of ‘basic living conditions’.
4. *Ibid.*, p. 13.
5. *Ibid.*, pp. 13–14. Alison Liebling, while recognising the importance of such material standards, is rightly more concerned ‘with less easily quantifiable features of the prison experience, and in particular, with perceptions of justice, fairness, safety, order, humanity, trust, and opportunities for personal development’, which she calls the ‘moral performance’ of the prison (Alison Liebling, *Prisons and their Moral Performance: A Study of Values, Quality and Prison Life*, Oxford: Oxford University Press, 2004, p. 50). However, I would contend that the material standards and the less tangible ‘moral performance’ are often closely inter-related, and have deteriorated in tandem in Irish prisons since the mid-1990s.
6. Council of Europe, Committee of Ministers, *Recommendation No. R (87) 3 of the Committee of Ministers to Member States on the European Prison Rules*, Adopted by the Committee of Ministers on 12 February 1987. (Available at: [www.coe.int](http://www.coe.int))
7. Council of Europe, Committee of Ministers, *Recommendation Rec (2006) of the Committee of Ministers to Member States on the European Prison Rules*, Adopted by the Committee of Ministers on 11 January 2006. (Available at: [www.coe.int](http://www.coe.int))
8. This information was provided in letter on 20 December 2011 by the Minister for Justice and Equality, Alan Shatter TD, in response to a Dáil Question tabled by Ciarán Lynch TD, on 24 November 2011 (Dáil Debates, Vol. 747, No. 5, 24 November 2011, p. 1034, PQ 163, 36793/11). The Minister’s reply provided data relating to 1 December 2011, and stated that 2,567 out of a prison population of 4,313 were not accommodated in a cell on their own.
9. Irish Prison Service, *Three Year Strategic Plan 2012–2015*, Longford: Irish Prison Service, 2012, p. 35. (Available: [www.irishprisons.ie](http://www.irishprisons.ie))
10. Information about toilet arrangements in prisons is given in a letter on 20 December 2011 by the Minister for Justice and Equality, Alan Shatter TD, in response to a Dáil Question tabled by Ciarán Lynch TD on 24 November 2011 (Dáil Debates, Vol. 747, No. 5, 24 November 2011, p. 1034, PQ 164, 36793/11). On 21 November 2011, out of a total of 4,269 persons in prison, 845 had to ‘slop out’; 1,885 others were required to use normal toilet facilities in the presence of others, and the remaining 1,539 were sole occupants of a cell with a normal flush toilet or had 24 hour access to toilet facilities.
11. Inspector of Prisons, *Report on an Inspection of Limerick Prison 25 November 2011 by the Inspector of Prisons, Judge Michael Reilly*, Nenagh: Office of the Inspector of Prisons, November 2011.

12. The Whitaker Report, *op. cit.*, p. 14.
13. The Jesuit Centre for Faith and Justice, *The Irish Prison System: Vision, Values, Reality*, Dublin, 2012, p. 31. (Available at: [www.jcfc.ie](http://www.jcfc.ie))
14. See written answer to Dáil Question tabled by Ciarán Lynch TD on 24 November 2011 (*Dáil Debates*, Vol. 747, No. 5, 24 November 2011, pp. 1034–5, PQ 165, 36794/11).
15. The Jesuit Centre for Faith and Justice policy paper on the Irish prison system, published in March 2012, analyses such shortcomings in considerable detail. See: Jesuit Centre for Faith and Justice, *op. cit.*, in particular, chapters 4 and 5.
16. The Whitaker Report, *op. cit.*, p. 14.
17. *Report to the Government of Ireland 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 25 January to 5 February 2010*, Strasbourg: Council of Europe, 10 February 2011, par. 99, p. 48. (Available at: [www.cpt.coe.int](http://www.cpt.coe.int))
18. *Response of the Government of Ireland to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its Visit to Ireland from 25 January to 5 February 2010*, Strasbourg: Council of Europe, February 2011, CPT/Inf (2011) 4, p. 61. (Available at: [www.cpt.coe.int](http://www.cpt.coe.int))
19. John Loneragan, *The Governor: The Life and Times of the Man who Ran Mountjoy*, Dublin: Penguin Ireland, 2010, p. 153.
20. Peter McVerry SJ made this point at the launch of the Jesuit Centre's policy paper, *The Irish Prison System: Vision, Values, Reality*, *op. cit.*, on 14 March 2012. He made the same point on RTE's 'Morning Ireland' earlier the same day. See also: Peter McVerry SJ, 'Drug Policy: Need for Radical Change', *Working Notes*, Issue 67, September 2011, p. 7.
21. The Department of Justice 1994 policy document, *The Management of Offenders*, gives the average daily prison population as approximately 2,175 (p. 27), and states that about 300 additional places would be needed to eliminate doubling up (p. 31). It is reasonable, therefore, to estimate that some 600 prisoners – just under 28 per cent – were at that time sharing cells (Department of Justice, *The Management of Offenders: A Five Year Plan*, Dublin: Stationery Office, 1994).
22. *Ibid.*, p. 31.
23. *Irish Prison Service Report 1999 and 2000*, Dublin: Irish Prison Service, 2002, p. 5 and p. 28. For a description of Cloverhill's origins and present conditions, see Jesuit Centre for Faith and Justice, *op. cit.*, pp. 50–51.
24. Department of Justice, 'Minister Shatter announces consideration being given to the construction of a replacement prison in Cork as part of an overall strategy to reduce overcrowding', Press Release, 29 February 2012. (Available: [www.justice.ie](http://www.justice.ie))
25. Irish Prison Service, *Unlocking Community Alternatives: A Cork Approach*, Longford: Irish Prison Service, 2012, p. 7. (Available: [www.irishprisons.ie](http://www.irishprisons.ie))
26. The Whitaker Report suggested that prison size should not exceed 100. The case for smaller prisons is also set out by the Jesuit Centre for Faith and Justice in: *The Irish Prison System: Vision, Values, Reality*, *op. cit.*, pp. 37–38.
27. Judge Michael Reilly, Inspector of Prisons, *The Irish Prison Population – An Examination of Duties and Obligations Owed to Prisoners*, Nenagh: Office of the Inspector of Prisons, July 2010. (Available at: [www.inspectorofprisons.gov.ie](http://www.inspectorofprisons.gov.ie))
28. *Ibid.*, par. 2.3, p. 10. The majority of cells in Arbour Hill do not meet the Inspector's minimum size for one, yet many of these have two people detained in them. Cells in E block, Portlaoise, also fail to meet this low minimum requirement for single cells. In many prisons, including Cork, Limerick, Midlands, Mountjoy, St Patrick's Institution and the Training Unit at Mountjoy Prison, large numbers of prisoners are doubled up in cells well below the minimum size for two people suggested by the Inspector of Prisons.
29. Patrick Hume SJ, 'Overcrowding and Cell Capacity in Irish Prisons', *Working Notes*, Issue 67, September 2011, pp. 16–22. (Available at: [www.jcfc.ie](http://www.jcfc.ie))
30. Inspector of Prisons, *op. cit.*, par. 2.4, p. 10.
31. Council of Europe, *European Prison Rules 2006*, *op. cit.*
32. A major flaw of the report of Thornton Hall Review Group is the serious disconnect between the lofty principles outlined in the beginning of the report and the Group's concluding proposals. See *Report of the Thornton Hall Project Review Group*, Dublin: Department of Justice, July 2011 (available: [www.justice.ie](http://www.justice.ie)). For a fuller critique of this report, see Kevin Warner, 'An open policy for prisons would serve us all better', *The Irish Times*, 11 August 2011.
33. The *Report of the Thornton Hall Project Review Group* recommended there should be '300 cells capable of accommodating 500 prisoners' in the main part of the proposed Thornton Hall prison (p. 68). This would mean there would be 400 (80 per cent) sharing in 200 cells and just 100 in single cells. For the main part of the proposed prison at Kilworth, Co. Cork, the Group recommended 200 cells accommodating 350 prisoners (p. 70). This would result in 300 (86 per cent) sharing in 150 cells and only 50 in single cells.
34. Brian Keenan, *An Evil Cradling*, London: Hutchinson, 1992, pp.113–14.
35. This is how the Minister for Justice and Equality, Alan Shatter TD, describes the situation. See written reply to Dáil Question tabled by Ciarán Lynch TD, 20 December 2011, *op. cit.* (endnote 10).
36. See Kevin Warner, *Resisting the New Punitiveness? Penal Policy in Denmark, Finland and Norway*, PhD thesis, UCD, 2009 (unpublished; available at: [www.epea.org](http://www.epea.org)). See especially prison descriptions in chapters 5, 6 and 7.
37. See, for example, Jesuit Centre for Faith and Justice, *The Irish Prison System: Vision, Values, Reality*, *op. cit.*, especially the sub-section, 'Work and Work-Training', pp. 66–67.
38. *European Prison Rules 2006*, *op.cit.*, n. 25.1 and 25.2.
39. *European Prison Rules 2006*, *op.cit.*, n. 102.2.
40. Council of Europe, The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *CPT Standards*, Strasbourg: Council of Europe, CPT/Inf/E (2002), n. 47, p. 17.
41. See David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society*, Oxford: Oxford University Press, 2001; John Pratt *et al* (eds.), *The New Punitiveness: Trends, Theories, Perspectives*, Cullompton: Willan Publishing, 2005.
42. See Kevin Warner, "'Valued Members of Society"? Social Inclusiveness in the Characterisation of Prisoners in Ireland, Denmark, Finland and Norway', *Administration*, Vol. 59, No. 1, May 2011, pp. 87–109.

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