The state of mental health among Irish prisoners

Sarah Pilon
RCSI medical student

Introduction
The goal of penal institutions is to correct behaviour that violates established societal norms. Those who deviate from these norms must serve a prison sentence, the duration of which is appropriately matched to the severity of their crime, as a deterrence from re-offending. However, when we send offenders with psychiatric comorbidities to traditional penal institutions, they do not receive the medical care they require. This negates the goal of the penal system, as behaviour cannot be corrected via imprisonment when the root cause of the criminal act is not corrected. Forensic psychiatry is the medical specialty that deals with individuals with mental disorders who demonstrate antisocial or violent behaviour.1 By failing to address the psychiatric needs of this forensic population while they are incarcerated, we see higher rates of recidivism and unnecessary stresses on the prison system.2 A recent study conducted by Linehan et al. indicates that psychiatric morbidity in Irish prisons greatly surpasses that of international rates.3 This study, combined with a revealing report by the European Committee for the Prevention of Torture and Degrading Treatment (CPT),2 has made it clear that the Irish prison system is failing our offenders with psychiatric illnesses in a number of critical areas. This article will provide an overview of the Irish criminal justice system’s approach to convicting the mentally ill, address the problems with this system as laid out by the CPT, and discuss the steps taken by the Irish Government to improve their penal system with respect to both the mentally ill and the safety of the public.

Implications of the Criminal Law (Insanity) Act 2010
The act that currently governs sentencing for Irish criminals suffering from mental health issues is the Criminal Law (Insanity) Act of 2010.4 When establishing guilt and determining an appropriate prison sentence, it takes into account a person’s mental state at the time the crime in question was committed. Under this Act, the accused may be judged not guilty by reason of insanity. This verdict is reserved for persons who have committed a crime and, following evidence provided by a consultant psychiatrist: (1) have been found to have been suffering from a mental disorder at the time; and, (2) that the mental disorder was such that the accused did not understand the nature of the act, did not know it was wrong or was unable to refrain from committing the act. Following this verdict, it can be decided whether the person is in need of acute inpatient care at a designated centre. Currently, the Central Mental Hospital (CMH) in Dundrum is Ireland’s only designated centre, meaning that anyone convicted under the stipulations of the 2010 Act is sent to this facility. Additionally, the 2010 Act contains a provision that applies only to persons who commit murder while suffering from a mental disorder. Under this section, it is possible that the accused person’s mental disorder would justify a verdict of diminished responsibility. In such a case, the accused may be tried for manslaughter and sent to an appropriate psychiatric facility if found guilty, as opposed to being tried for murder, which bears a mandatory life sentence if the verdict is guilty. Under the 2010 Act, any patient admitted to the CMH has their detention reviewed at regular intervals never exceeding six months. The Mental Health (Criminal Law) Review Board determines whether the patient continues to require acute treatment, should be detained in a designated centre, or can be discharged (unconditionally or subject to terms it deems appropriate). If the patient remains detained in a designated facility for the duration of their prison sentence, they are subject to psychiatric review before their release. If the Review Board believes that the patient would benefit from further mental health treatment, he/she may be retained within the psychiatric prison system. Alternatively, if the medical officer deems that the patient is no longer in need of inpatient care prior to the completion of their sentence, they may be transferred to a regular prison. One would assume that the introduction of the not guilty by reason of insanity plea would decrease the prevalence of patients with psychiatric comorbidities in regular prisons.5 However, it appears that the courts have not sufficiently made use of this Act. Offenders with psychiatric illnesses are still frequently sent to regular prisons, perhaps owing to
the lack of secure regional psychiatric facilities. Recent cross-sectional studies have concluded that the six-month prevalence of mental illness is 1.8% among fixed sentence prisoners, 6.1% in prisoners serving a life sentence and 7.6% among remand prisoners – that is, those who are detained in prison while awaiting further sentencing. While the first two values were similar to internationally established rates, the rate of psychiatric comorbidities in Irish remand prisoners is twice that of international rates.

Review of the Irish prison system by the European Committee for the Prevention of Torture

The challenges that mentally ill offenders face are exacerbated by a lack of adequate funding. A number of hazards and inadequacies were identified by the CPT in a 2011 report addressed to the Irish Government.

Inadequate facilities and healthcare

Inadequate funding of the Irish prison system has led to a delay in the implementation of much-needed and substantial renovations to the nation’s largest prisons. A rise in the number of convicted persons has not been met by increased capacity, resulting in gross overcrowding. It was noted in the CPT report that many cells originally designed for single occupancy were housing three prisoners in Cork; in Limerick, many inmates were sleeping two to a bed. This regrettable situation was made worse by a lack of hygienic facilities. The CPT noted that one-quarter of, or nearly 1,000, prisoners were without adequate toilet facilities and were required to ‘slop out’ – a degrading situation where the prisoner uses a chamber pot that is removed at the end of each day. Both overcrowding and the presence of biohazardous waste are particularly harmful to mentally ill prisoners. Overcrowding has led to the forced integration of mentally ill and regular offenders, which may contribute to increased rates of suicide and violence within the prison system. Remaining confined to a cell in the presence of biohazardous waste is not only dehumanising, but also poses a health risk to all those involved. Moreover, prisoners who are mentally ill may not recognise the inherent risk associated with these poor living conditions, putting them at an even greater health risk.

Inadequate psychiatric care

Given the current state of disrepair of and disorganisation within the Irish prison system, it is not surprising that the additional health and safety needs of mentally ill offenders often go unmet. Prisons are not appropriate institutions for the mentally ill because there is only a certain standard of care that can be provided on a large scale in prisons. For example, prison staff receive limited training in psychiatry. As such, the irrational and often violent behaviour of psychiatric patients may be perceived as the intentional aggression of a mentally competent prisoner, leading to the routine disciplining of behaviour that would best be treated medically. The Mental Health Commission has detailed rules and restrictions regarding the sanctioned use of isolation and mechanical restraints. However, the CPT noted instances where isolation was used as a punishment following mentally ill behaviour. The CPT also recommended the provision of debriefing services to patients following their release from solitary confinement in order to reduce the psychological trauma of the experience and to restore the doctor-patient relationship. A debriefing is a process where open discussion is encouraged between the staff and patients regarding the reason for isolation. The goals of debriefings are to achieve mutual understanding of the event by staff and patient alike, and to identify those patients in need of follow-up care.

‘A Vision for Change’ and further solutions

In 2006, the Irish Government recognised the need to improve psychiatric services for prisoners, and released a report entitled ‘A Vision for Change’, which detailed the Government’s comprehensive policy framework for mental health services for the next decade. The report was released by an expert panel spearheaded by former Tánaiste and Minister for Health and Children Mary Harney, and Minister of State in the Department of Health and Children Tim O’Malley TD. One of the major objectives of the policy framework was to see forensic psychiatric patients treated in full compliance with the standards set by the Mental Health Act of 2001. This panel also recognised the need for the expansion of court diversion systems. Diversion systems, in the interest of public safety, allow for the placement of people charged with a crime associated with an underlying mental illness in a facility to receive treatment and serve the penalty for their offence. This facilitates the early identification of mental health problems and places emphasis on treatment, thus decreasing the risk of recidivism. A 2002 study funded by the United Kingdom’s Research, Development and Statistics Directorate of the Home Office concluded that the reconviction rate of those who had been admitted to psychiatric hospitals from courts was half that of age- and offence-matched mentally ill offenders who were sent to prison. In light of this fact, 103 offenders were diverted from the courts or prisons to appropriate community or general psychiatric facilities in 2009, and this number has increased in recent years. To allow for appropriate referral of this population, it is necessary to expand the capacity of the CMH and develop new facilities. Crichton argues that developing the infrastructure to accommodate offenders with psychiatric illnesses is in the interests of society as a whole, stating that “secure psychiatric facilities will facilitate appropriate treatment for patients and will protect the wider community.” The Irish Government has developed plans to establish a new forensic mental health facility to replace the CMH in response to the increasing forensic psychiatric population. Initial plans to relocate this facility to a site in close proximity to the Thornton Hall prison were cancelled following protests from mental health advocacy groups. At time of going to press, a project team has been assembled, but no details have been released regarding the hospital’s completion date.
recognised the need to improve the prison discharge programme to allow for a safer transition of prisoners with psychiatric illnesses from their detention facilities to structured community facilities. Edgar and Rickford make the case for meeting such demands, arguing that: “When vulnerable people are released from prison with no after-care arrangement in place, the predictable outcome is that the person is often returned to face a subsequent prison sentence”.11 Community infrastructure and support systems must be reworked to accommodate the social re-integration and medical needs of offenders with psychiatric illnesses.

**Conclusion**

The CPT has identified several critical issues in the areas of inconsistent healthcare, shortage of facilities, inhumane living conditions and inadequate psychiatric care, all of which need to be resolved to better serve the needs of mentally ill prisoners. The initiatives outlined in the Irish Government’s 2006 ‘A Vision for Change’ policy document are necessary and commendable. However, the delay in follow through, specifically with respect to the development of a new forensic centre for mental health, casts doubts on the feasibility of the ten-year timeline set out in the policy framework. The most recent review of the policy, in July 2011, emphasised the need for continued improvement.21 Many mental health services across Ireland continue to have no collaborative referral and discharge protocol in place with primary care teams. Several of these same mental health centres do not have individualised patient management, and even lack guidelines for assessing and managing those deemed to be at a high risk of suicidal or violent behaviour.21 Moreover, the majority of psychiatric facilities across the country have witnessed little or no increase in their budget since the release of the ‘A Vision for Change’ policy six years ago.22 Advocacy and spotlighting of the issues related to the mental health of Irish prisoners needs to be augmented and maintained to ensure that current economic pressures do not take precedence over the basic human needs and healthcare requirements of these individuals. The CPT is scheduled to re-evaluate Irish prisons this year, and one can only hope that the situation of Irish prisoners with mental health disorders has improved.

**References**


