

Does the penal lobby matter any more?

Mick Ryan says the penal reform lobby is no longer the dominant force it once was and that it must adapt to a changing policy environment.

Britain's penal lobby is much admired abroad. Few other countries, even in tolerant Scandinavia, have quite so many pressure groups or independent think tanks advising governments at the centre about how to shape penal policy in what we might broadly define as a 'progressive' direction.

Furthermore, the lobby has grown over the past 20 years. New groups like INQUEST and the Prison Reform Trust have muscled in on the space that was once the almost exclusive reserve of the Howard League for Penal Reform, while the Centre for Crime and Justice Studies, for example, cheerfully pronounces on matters that were once pretty much left to the official Advisory Council on the Penal System.

So, present-day governments hardly go short on advice, and this often includes hard-hitting advice from groups highlighting the experiences of ethnic minorities and women in the penal system.

But even if this expanded and apparently vigorous, progressive lobby is still admired abroad, is it as effective as it once was? Do its opinions really matter any more?

The question is surely worth asking, not least because Britain's prison population is soaring at a time when overall crime rates in key areas are declining, and Gordon Brown's New Labour has sanctioned the building of ever bigger—titan—prisons and promises to get even tougher with persistent offenders.

While I would be among the first to argue that without the efforts of progressive lobby groups, the prison

population would probably be even higher and some punishments more repressive, my own research suggests that the penal lobby has been, if not wholly marginalised, at least re-positioned to the periphery of an increasingly complex policy making process. It is no longer the dominant force that it once was.

Past and Present

To explain this, it is best if we first look backwards. Penal policy making in the two or three decades after 1945 was very much a closed, elite-oriented process. Senior civil servants, various penal experts, government appointed advisory panels and Ministers would draw up policies, often in close association with metropolitan-based pressure groups like the Howard League. The wider public was not much involved in this process. Indeed, policy makers actively worked to exclude public opinion, or out-manoeuvre it. For example, while the public at this time was still very much in favour of corporal and capital punishment, the *cognoscenti* abolished the former and restricted the latter in 1957, paving the way for its eventual abolition in 1968.

Ignoring the public in this way was common across a whole range of government policy making right up until the 1970s. Senior politicians, civil servants, and lobbyists were allowed to make policy in a considered, unhurried way, and often behind closed doors under the protection of the notorious Official Secrets Act (1911). The public deferred to their better

educated and informed masters on complex issues like penal or foreign policy.

The contrast between then and now could not be greater. Political deference is now in rapid retreat. Members of the public are no longer prepared to let their political masters dictate policy agendas; to sit idly by while Ministers, so-called experts and pressure-group spokespeople sit around on *Newsnight* or *Today* telling them what they ought to be thinking. Overhearing such conversations is no longer enough: the public expects to be included, to have its views, often it has to be said, raw views, heard and taken into account when it comes to making public policy and, not least, penal policy. The new digital technologies have made such interventions easier and more effective (Ryan 2003).

This change in our political culture has not only made the already difficult business of governing even more difficult; it has re-positioned the penal lobby. It has become marginalised, less influential than it once was in shaping the direction of Britain's penal policy. This is not to say that it has no influence—that would be demonstrably inaccurate (and ungenerous)—but the populist drift of recent governments suggests that the penal lobby no longer has the undivided attention of policy makers who increasingly seem to be more concerned about responding *instantly* to red tops like *The Sun* than listening to the *considered* views of the crime-reduction charity, Nacro, the National Association of Probation Officers, or the Prison Reform Trust.

The strategic message of these developments for the penal lobby is pretty obvious, namely, that it should concentrate less on cultivating its increasingly less productive contacts in Whitehall, and instead work outwards to counter atavistic populist demands and re-shape public perceptions (and expectations) about penal practice. This is where it should now be directing its energies. To give a helpful, though admittedly not exact parallel, groups like Greenpeace and Friends of the Earth put environmental issues, including

global warming, on the political agenda not by cosying up to Whitehall, but by campaigning strongly in the countryside, in schools and in village halls, and on occasions, by taking direct action.

Of course, any strategy needs to be flexible and layered, so on occasions lobbying the Ministry of Justice will continue to be the right tactic, say pressing for the implementation of Baroness Corston's recommendations on the treatment of women in the criminal justice system, but the overall shift needs to be away from the centre. It would have been encouraging, for example, to have seen more of the established and financially powerful lobby groups on the frontline supporting Pauline Campbell's militant protest outside Styal prison in February this year. Why has the initiation of public, street protests against the deaths of women in custody so often been left to courageous individuals and their families?

Lobbying from Below

Another reason to support this outwards thrust has been the way in which the management of the criminal justice system, including the penal system, has changed. In the three decades after 1945, criminal justice was very much the business of the state. Penal policy was made at the centre and delivered by state employees, and this became increasingly true of policing as local police forces were amalgamated and the Home Office increased its reach over policy implementation through Circular Instructions to every chief constable. In such a highly centralised system, where all roads led to the corridors of Whitehall, it was wise for the penal lobby to concentrate there.

However, in the last two or three decades, the State has given up on the pretence that it can effectively run the criminal justice system single-handedly that it needs the support of other tiers of government as well as the active support of non-

governmental agencies, some voluntary bodies, and other profit-making organisations. So, for example, local authorities now have statutory duties on crime prevention, while the probation service is at this very moment being tasked—some might say bullied—to offload a given percentage of its services to the voluntary sector.

This makes the criminal justice system far more porous, more open to influence than in the past, and those who seek to encourage progressive penal practices should actively seek to cultivate this expanding space at every level.

Again, this does not mean abandoning lobbying on national issues at the centre. A prototype for this sort of organisation could be Nacro which, to take just one example, played a role when I was involved in the lobby in providing housing and employment for ex-offenders throughout the country while at the same time playing a leading role arguing over the future thrust of penal policy in the London based Penal Affairs Consortium. While operating both a national and a local focus will not suit the objectives or resources of all groups, it is a model which is increasingly attractive, given the changing shape and operation of the penal system, and academic researchers will need to direct more of their attention here when they seek to measure the effectiveness of the lobby as it seeks to adapt to changing patterns of governance.

But we need to be careful here: while the State is downsizing its role in delivering many penal services, it still seeks to keep control of these services. Under the mantra of New Public Management techniques, it increasingly sets national standards and targets in order to evaluate outcomes and measure performance. The message here is the unpleasant realisation that the modern State seeks to control more rather than to control less. However, as Michael Power (1997) has pointed out, the state usually controls less than it

thinks it does. So, the lobby should, on the basis of well thought out criteria, engage more at a local level, which is where political education starts, and this is likely to involve a steep and painful learning curve for some groups.

Conclusion

All this confirms my opinion that even though the penal lobby is less of a force than it once was because of the decline of political deference and the rise of the public voice, coupled with new patterns of governance, it still has a critical role in lobbying outwards, not least to contest the new penal populism. This is not an easy role for the lobby to adapt to, far more difficult than the 'good old days' when a small, predominantly male, metropolitan elite in their London clubs dictated the direction and pace of penal change.

But principled, critical interventions do still count. For example, the lobby deserves great credit for strengthening New Labour's faltering resolve to resist the demands of marauding parents and several red tops for a crude UK version of Megan's law the time of the Paulsgrove disturbances in 2001. Had it not been for the outspoken criticism of some lobby groups and the views of some practitioners, including probation officers and police, *The News of the World* might well have got its way.

The lobby should acknowledge the strategic importance of this hard fought campaign and take it as a wake-up call to adapt to the realities of a changed, and increasingly complex, policy-making process. ■

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References

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