



PERILOUS POLICIES

American justice and the rediscovery of the prison

Andrew Rutherford

The quantum leap in the prison and jail population that has taken place in the United States since the early 1970s can hardly be over-stated. After years of relative stability with an incarceration rate of around 170 per 100,000 of the population for the first seventy years of this century, the rate today is over 550 and projected to get much higher over the next few years. The mild scepticism about imprisonment which existed at a political level in the late 1960s and into the early '70s has vanished. Prison works in the sense that most people feel very happy with it. The massive financial cost means that trade-offs have to be made with other sectors of the economy such

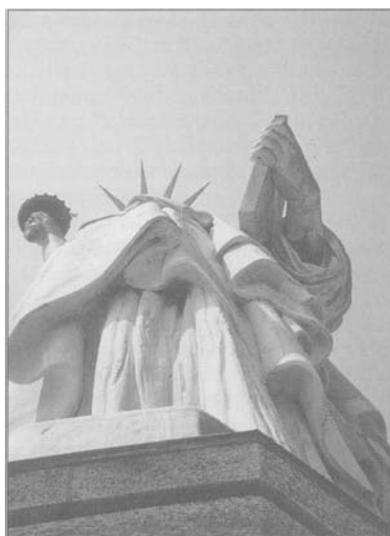
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as higher education but these are being made with equanimity. Although the research evidence gives little comfort to academic apologists for the prison numbers explosion such as James Q Wilson and John J DiIulio Jnr. the rush to incarcerate proceeds without pause. It is, in fact, increasingly clear that the American experience, at least since the early 1980s, has very little to do with impact upon crime, comparative costs or any other utilitarian measure. Instead, its impetus appears to reside in a "feel good" factor which pervades the discourse between politicians and the general public on this topic. There is simply no debate on this issue in the run-up to the November election.

Feeling good

This "feel good" factor has now crossed the Atlantic. In the 1980s there seemed to be a general political consensus that the American experiment in mass incarceration was one that should not be repeated in Britain. In fact during the latter 1980s the shape of criminal policy development during Douglas Hurd's period at the Home Office was largely in the opposite direction. Considerable

efforts were made by ministers and officials to develop a reflective and calm approach to these issues. Notions of war on crime were eschewed and attempts were made to encourage close collaboration at the local level to crime prevention and effective work with offenders. It was during that decade that some of the most creative programmes with young offenders were pioneered across the country. By the early 1990s the prison population had been reduced, and the trend was especially marked with young offenders. The Criminal Justice Act 1991, which received strong cross-party support, both consolidated the progress that had been made and set a clear direction for the decade ahead. All of that is now history and the Act and



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the spirit it embodied were rubbished by Kenneth Clarke and his successor Michael Howard. Furthermore the position of the Labour Party, at best ambiguous, has put the Government on the defensive. Not surprisingly, prison numbers have risen sharply over the last four years and are now at record levels. Whereas a decade or so ago Douglas Hurd and his colleagues looked to Germany, France and other parts of Europe, all eyes are now fixed on the United States.

A dangerous momentum

This fixation by Conservative and Labour politicians on importing the American model has many facets. In the new technological age, it has in part to do with the promise of quick fix solutions. Terms like "zero tolerance" (used to describe the approach of the New York

City police to social problems) have an immediate appeal to politicians who wish to remove 'eyesores' and squeegee merchants. 'Bootcamps', whether they work or not in terms of recidivism,

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suggest an urgent military operation. Electronic surveillance, which is clearly still in its infancy, offers an abundance of possibilities. But it is not only American penal paraphernalia which so captivates Mr Howard, Mr Straw and their advisers but the total "feel good" mood on crime and punishment in the United States. Underlying this mood is the inherent sense that a massive investment in the apparatus of criminal justice, and particularly in mass incarceration, carries with it the promise of disposing of social problems. One consequence of President Clinton's pledge to "reform welfare as we know it" seems likely to be yet further reliance on imprisonment. If "prison works" in this sense, so will other congregate institutions for "welfare mothers" and their children. The same academics who gave an academic respectability to incapacitative penal institutions are now calling for a new generation of orphanages and "training centres" for unmarried mothers.

There is little indication that the American rediscovery of the prison and other asylums is slowing down. At some point the courts, as protectors of the constitution, may impose firm limits. For countries such as Britain, where such values are less easily given legal force, it may be more difficult to slow the momentum. It would be a cruel irony if, in due course, the Americans are better equipped to abandon this disastrous policy direction than we are in Britain.

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