

PENAL PARADOXES

Who guards the Home Secretary?

What is one to make of the judges, who chose to fill our prisons more fully with men serving longer than anywhere outside the USA, attacking the Home Secretary who simply says that his job is to provide what they need?

What is one to make of a Government which announces the provision of 6 more prisons whose specification will ensure a provision of education and training and sports facilities which would be the envy of many schools and community centres when presumably it knows that their filling will have no significant effect on the crime rate?

It might be tempting to conclude that the judges believe in locking people up while the Home Secretary believes in making that as painless as possible. Why then are the protagonists portrayed as holding the opposite views?

If the Home Secretary believes that prison should be austere what is so wrong with that? Who has ever said anything different? Surely nobody would seriously argue that life for anyone who is provided for by the state, least of all prisoners, should be luxurious? And for those who are imprisoned, whether on remand or on conviction, it cannot seriously be supposed that they are expected to suffer no more deprivation that is implicit in the order of the court. Imprisonment means deprivation.

Not even the most adventurous of the pressure groups is suggesting that even those on remand should continue to enjoy full sexual relations, or have the full telephone and secretarial facilities to conduct their business, whether legitimate or not. Surely nobody is seriously hopeful that, whatever Lord Woolf may have said in his report, the tax-payer is prepared to pay for clusters of separate community prisons for those on remand in city centres, with sub-prisons for women, and for girls, and for young men, in addition to a range for the different levels of security needed for the convicted near to their homes. So, even when we do not mean to be austere, we have to accept that locking up as many as we do, whether on remand or not, carries with it a huge loss of normal life.

If the debate really has opened up, where is it likely to lead? Are we allowed to question the right of the Courts to send offenders or the unconvicted into custody regardless of the ability of the prisons to receive them and keep them with

humanity? Can we expect those same Courts to judge whether the conditions in those prisons fall below acceptable standards - the same standards to which the Prison Service as an Agency is trying to bind itself, and which the Home Secretary, to whom the Agency is accountable, is committed to maintain?

Who is the enemy of the victim? The offender today is facing really quite a cheerful prospect. While still far short of the vision and values of the service, never before has the prisoner been treated with so much care and respect in prison, nor her rights been so jealously protected by the courts here and abroad?

In my prison it is not uncommon for



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the prisoner to be addressed as 'Mr', and for me to shake his hand before telling him that I have denied him something he wants. The level of genuine courtesy and respect between Prison Officer and prisoner is very high and often remarked on by visitors. But it is nevertheless an austere prison. If men do not wish to take part, or to try to deal with their offending, they get no pay and go to the back of the queue when the good jobs are handed out. If they have not opted to be active they come first when we have to look for men to be transferred away from the area. If they have not tried to tackle their offending insofar as that is possible in prison they are unlikely to get home leave, no matter how low their security risk. None of those non-prisoners who recently spent just one night in the prison would wish to live like that: indeed I found them really quite resistant to being locked away at 8.30 pm which is some 3 hours later than in many other prisons.

That is what prison has meant for a

long time. Has the Home Secretary suggested anything different? It is the judges who chose to fill the prisons. It used to be their job to empty them - to 'oyer and terminer', to 'deliver the gaols'. And it is the judges and the Attorney General who, in America, have seen the ruinous road down which they pour the contents of the community coffers if they go for mandatory minimum sentences and unrestricted use of custody. If California spent \$14 billion on new prisons over the decade from 1980 and the prison population rose from 22,000 to 110,000 in the period, and the prisons are now 60% overcrowded, the judges must have had something to do with it.

The Home Secretary has not denied his responsibility for some adjustment to the Criminal Justice Act, but it is the judges who have complained of the strait-jacket of the 1991 version, even against the counsel of the magistracy many of whom who have argued only for the fine-tuning of the system.

True, one James Bulger does not make a case for locking up all truants. True, one murder on home leave does not justify stopping all leave. So we have to argue the cases, and we have to be seen to apply reasoned argument to the irrational measure which, at bottom, prison is. And we may have to accept that nobody wins where prisons are concerned. They cost too much. They make offenders weaker. They deny rights which most of us regard as basic. They prevent only a minuscule amount of crime. And they discharge offenders when the sentence expires, not when offenders are safe.

But if we are in a penological turmoil it is not because political life is short to the extent that no Home Secretary has addressed more than one annual prison service conference in the last 10 years. Weep not that there are some very bruised mandarins who have seen their careful policies turned upside down: those same mandarins had no answer to the conditions which led to Strangeways.

Be glad that we have at last a debate which has ground rules more free than for decades past, that we have a judiciary which has declared itself open to the debate, and that we have very little money to spend on locking people up however much we might wish to do so. And be glad that we have got a culture into the prison system which, at the very least, will not tolerate a return to the brutalisation of staff or prisoners without a public outcry.

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