The inter-national context

Andrew Coyle looks at the history of imprisonment, and the importance of international conventions on human rights.

T his edition of *Criminal Justice Matters* is largely concerned with prisons in England and Wales. Why, then, include an article on the international context of imprisonment? To what extent can that be considered relevant to what goes on in this country? The international context is extremely relevant for several important reasons.

Mother of the prison

Along with the north eastern states of the United States, the United Kingdom can be considered as the mother of prisons as we now know them. The genesis of the Silent System of imprisonment in the State of New York and of the Separate System in the State of Pennsylvania at the beginning of the 19th century has been well documented. At the same time or before, similar developments were taking place in prisons such as Gloucester and Glasgow Bridewell in this country. Penal reformers in the United Kingdom pressed the notion that prisons should not be places of depravity and inhumanity but that they should be decent and austere. John Howard spread this principle to other countries in

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Europe. His efforts at reform are still remembered in Ukraine, where he died. The next generation of reformers went beyond the concepts of decency and austerity to those of the prison as a place of reform and rehabilitation.

On the heels of these developments came the considerable expansion in the use of the prison and the growth of the machinery of imprisonment.

Prison administrators in the United Kingdom, like Paterson in England and Polwarth in Scotland, were very active in developing international networks such as the International Prison and Penitentiary Commission. They were enthusiastic purveyors of the idea that prison was an effective method of reducing crime. This was a notion which had great appeal. It was taken up enthusiastically in many countries.

Mother of the empire

The United Kingdom not only encouraged other European countries to expand their use of imprisonment. It also exported the prison to many far-flung quarters of its colonial empire. It introduced prisons to many cultures in which this form of punishment of wrong-doers had previously been quite unknown. This was true, of course, not only of imprisonment but of many other aspects of criminal justice, where the colonial powers disturbed the balance of justice which existed before their arrival. Mark Tully [1] quotes the view of an elder in an Indian village:

In my view the worst thing that has happened is that the police have started coming into the village. In the old days the police never came - we used to sort out our quarrels ourselves or with the panchyat (village council). But nowadays people keep running to the court or the police station. They waste a lot of money and achieve nothing.

The concept of prison as a place of punishment is alien to many cultures in Africa and Asia.

David Kidd Hewitt

The prisons which exist in many of these countries today are colonial legacies, in respect of buildings, of organisation and of regulations. Speaking in 1996, Judge O'Kubasu of the High Court of Kenya commented [2].

As we discuss prison situations in Africa we cannot escape considering historical perspectives. What is interesting is that the concept of imprisonment as a penal measure did not exist in African traditional society. Prisons in Africa have their genesis in colonialism.

The sad reality is that the conditions in some of the prisons which are in use in these regions today are among the worst in the world. As a country the United Kingdom cannot entirely ignore the sad inheritance which it has left.

International obligations

Another reason for considering United Kingdom prisons in an international context is that they are subject to standards which have been agreed at intergovernmental level. These may be universal, such as those set by the United Nations, or regional, such as those set by the Council of Europe. It is important to stress that these are not standards which have been imposed on us by foreign powers. The United Kingdom has been one of the driving forces behind many of the international human rights covenants, particularly the original ones drawn up in the aftermath of the Second World War. The United

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Kingdom was one of the prime drafters of the Universal Declaration of Human Rights (UDHR), which was adopted by the General Assembly of the United Nations in December 1948. Article 10 of the UDHR requires that:

"No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment."

The UDHR is not a legally binding instrument but its provisions are held to constitute general principles of law or to represent elementary considerations of humanity [3]. The International Covenant on Civil and Political Rights was adopted by the General Assembly in 1996 and came into force in 1976. It has the legal force of a treaty for the States which have signed it. The United Kingdom has done so. Article 10 of the Covenant requires that: "All persons deprived of their liberty shall be treated with humanity and with respect inherent dignity of the human person."

Other UN conventions which are relevant to the treatment of people deprived of their liberty include the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Convention on the Elimination of All Forms of Racial Discrimination (1966) and the Convention on the Elimination of All Forms of Discrimination against Women (1979).

These conventions are not theoretical or academic treatises. They compose a body of international law which must be respected by the community of nations. Their relevance to what goes on in this country has been exemplified by the debate over the past few months about what should be done with young people who break the law. Recent judicial review and HM Chief Inspector of Prisons have drawn attention to the fact that increasing numbers of young persons under the age of 18 years are being held in prisons. The UN Convention on the Rights of the Child (1989) defines a child as "every human being below the age of 18 years" (Article 1). The United Kingdom has ratified, and is therefore bound by, this convention. That is not to say that the actions of children cannot be bound by law. It does mean that

when dealing with these acts the law has to take account of the fact that they are children.

European conventions

The European Convention on Human Rights makes specific reference to punishment and to those deprived of their liberty. The proposal by the present government to incorporate this Convention into domestic law has attracted a great deal of public comment. Some of the criticisms of this proposal give the impression that incorporation will involve imposing the will of a foreign power on a sovereign state. This is ironic, given the fact that the United Kingdom played a leading role in drafting this convention, which was signed in 1950 and came into force in 1953. Its provisions include many of the principles which our fathers fought so strenuously to defend in two world wars. Some of these are of specific relevance to prisoners. Article 3 deals with the right not to be tortured or to be subjected to inhuman or degrading treatment or punishment. Article 6 deals with the right to a fair trial and to preparation of defence. Article 8 deals with the right to respect for private and family life.

In 1989 the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment came into force. This convention mirrored the similar convention which had been adopted by the United Nations in 1984. However, it also set up a Committee which is entitled to visit States which are signatories to the Convention in order to inspect places where people are deprived of their liberty. Following a visit to the United Kingdom in 1990 the Committee reported that in respect of Brixton, Leeds and Wandsworth Prisons that: "the cumulative effect of overcrowding, lack of integral sanitation and inadequate regimes amounts to inhuman and degrading treatment.[4]"

In its response, the Government accepted that conditions in the three prisons "needed considerable improvement" but disagreed that they constituted inhuman and degrading treatment[5]. Whatever the niceties of definition,

there is no doubt that the Committee's report contributed significantly to pressure to improve conditions in these three major prisons.

International instruments for the protection of prisoners

The general principles which are contained in the Covenants and Conventions mentioned so far are covered in more detail in a number of international instruments which refer specifically to prisoners. These include the Standard Minimum Rules for the Treatment of Prisoners (1957), the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988), the Basic Principles for the Treatment of Prisoners (1990), the Standard Minimum Rules for the Administration of Juvenile Justice (1985). There are also a number of instruments which refer specifically to staff working with people who have been deprived of their liberty. They include the Code of Conduct for Law Enforcement Officials (1979) and the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment (1982).

An example to others

It is proper to remind ourselves that the United Kingdom carries a heavy responsibility for the development of the prison and for its export to many countries. It is equally important to recognise that many countries today look to the Prison Service of England and Wales as a model of a service which strives to carry out its duty within a context of humanity, decency and fairness. The conditions in a number of our prisons still fall far short of what of what should be expected in a civilised society. The increase in numbers and a re-

duction in resources in recent years have led to a reversal of some of the significant improvements which followed in the wake of the Woolf Report and the subsequent White Paper. What is important is that no one denies the need for improvement to meet our own as well as international standards. The criticisms of campaigning bodies and pressure groups are given prominence and are taken into account by government ministers and officials. The independence of HM Chief Inspector of Prisons of the Prisons Ombudsman and of Boards of Visitors are held up as models for other countries. The Director General of the Prison Service has been quite outspoken in pointing out the need for a balance between the competing demands being placed on the Service and the dangers of increasing population size while seeking greater cost effectiveness. On the international front, the United Kingdom has played a key role in developing standards and in taking account of constructive criticism when offered.

The example of others

It is a truism to note that prisons reflect the cultural values of the societies in which they exist. The international norms and standards need to be observed but so do local realities and circumstances. For that reason, it is not appropriate to hold up any one prison system as a model of excellence for others. What is appropriate is that we should be open to examples of good practice in other countries.

Traditionally in the United Kingdom we look to predominantly white Anglophone countries. It would be interesting, for example, to count how many delegations from England and Wales had visited the various prison systems in Canada and the United States over, say, the last ten years.

It is worth pointing out that many examples of good prison practice are to be found in other countries. The Polish prison system can teach us a great deal about how to cope successfully with massive organisational change in an environment of very limited resources. There has been a significant reduction in the prison population in Finland without any loss of public confidence. Slovenia, with one of the lowest ratios of *imprisonment among countries in* the Council of Europe, is at the forefront of requiring prisoners to face up to the consequences of their crimes. Zimbabwe is leading the world in developing alternatives to prison which have public support. And there are many similar examples.

Conclusion

Imprisonment as a punishment of the court is a fairly recent invention. In the course of a few hundred years its use has extended to almost every country in the world. In the United Kingdom it is the most extreme punishment which can be imposed on a citizen. The extent to which prisons operate in a decent, humane and just fashion is indeed a measure of the civilisation of a society. It is a measure which can be used by others on us as a nation and which we can use on others. ∎

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Virtual Prisons: A brief guide to prison resources on the Internet

In their 1922 history of the English prison system Sidney and Beatrice Webb[1] criticised the prison system for being a silent world shrouded from the public eye. It is somewhat ironic, therefore, that seventy-five years later one of the most useful sources of information about prisons should share their name. The Internet was born in the USA in 1969 out of an experimental early computer network for the military . Today this virtual community which includes the World Wide Web, telnet, FTP and electronic mail (e-mail) is one of the fastest growing sources of up to date information. As such, no written guide to the Internet could possibly hope to cover all the ever changing available resources. Instead this guide aims to introduce some of the best sites from which to begin exploring penal issues on the Internet. As with the written word, the Internet reflects the UK and USA's dominance in the English language, with US sites being by far the most prolific.

For background information about penal systems, thematic papers and statistics, see:
- **The ACA Critical Criminology Division's Prison Information and Statistics** (http://sun.soci.niu.edu/~critcrim/prisons/prisons.html) (US)
- **The American Correctional Association** (http://www.corrections.com/aca) (US)
- **The American Jail Association** (http://www.corrections.com/aja) (US)
- **Center for Sex Offender Management** (http://www.csg.org/appa/csom.html) (US)
- **Correctional Services Corporation** (http://www.correctionalservices.com) (US)
- **Corrections Connection Network** (http://www.corrections.com)(US)
- **Federal Bureau of Prisons** (http://www.bop.gov/) (US)
- **HM Inspectorate of Prisons for Scotland** (http://www.open.gov.uk/scotoff/pi.htm) (UK)
- **HM Prison Service** (http://www.open.gov.uk/prison/prisonhm.htm) (UK)
- **International Association of Correctional Officers** (http://www.acsp.uic.edu/iaco/about.htm) (US)
- **Justice Information Centre's Corrections page** (http://www.ncjrs.org/corrhome.htm) (US)
- **Northern Ireland Prison Service** (http://www.nio.gov.uk/prisintr.htm) (UK)
- **The Penal Lexicon** (http://www.penlex.org.uk/) * note access is restricted by subscription (UK)
- **The Prisons Handbook** (http://www.tphbook.demon.co.uk) (UK)
- **Private vs Public Prisons** (http://www.securitymanagement.com/library/00023 1.html)
- **The Woolf Report** (http://www.law.warwick.ac.uk/woolf) (UK)

For sites dealing with various aspects of the realities of prison life, see:
- **Aftermath** (http://www.soft.net.uk/turner/aftermath.htm) (UK)
- **British Prison Memorabilia** (http://www.netmaine,co,uk/scservices/prison/index.html)
- **Correctional HIV Consortium** (http://www.silcom.com/~chc) (US)
- **Correctional Officers Online** (http://www.clarknet.com/erd/correct/c_off.htm) (US)
- **Dead Man Talkin'** (http://monkey.hooked.net/monkey/m/hut/deadman/deadman.html) (US)
- **Families Against Mandatory Minimums** (http://www.famm.org) (US)
- **Family and Corrections Network** (http://www.fcnetwork.org) (US)
- **Inmate Classified** (http://www.inmate.com) (US)
- **Journal of Prisoners on Prisons** (http://www.synapse.net/~arrakis/jpp/jpp.html)
- **JusticeNet's Prison Issues Desk** (http://www.igc.apc.org/prisons) (US)
- **The Other Side of the Wall** (http://www.wco.com/~aerick)(US)
- **PennPals, Prison Inmate Services Network** (http://www.pennpals.com)(US)
- **Stop Prisoner Rape** (http://www.igc.apc.org/spr) (US)
- **The Unit for the Arts and Offenders** (http://info.lut.ac.uk/departments/ss/centres/uao/index.html) (UK)

For examples of individual prisons on the web, visit:
- **Alcatraz Island** (http://www.nps.gov/alcatraz) (US)
- **Gates Correctional Facility** (http://www.geocities.com/capitolhill/5545) (US)
- **The Internet Virtual Prison** (http://www.geocities.com/capitolhill/7372) (US)
- **Magic Hot Springs Youth Camp** (http://www.cyberhighway.net/~jmhutch) (US)
- **Wisconsin Supermax Prison** (http://supermax.jobsight.net) (US)

For further guides to prison sites, see:
- **Dante's Links to Prison Related Web Sites** (http://www.halcyon.com/dante/dpp/links.html)
- **Florida State University School of Criminology's Prison links** (http://www.fsu.edu/~crimdo/prison.html#prisons)
- **Yahoo! Corrections and Rehabilitation Links** (http://www.yahoo.com/Society_and_Culture/Crime/Correction_and_Rehabilitation)

All of these links, and many more, may be found on the prison links page of the ISTD web site at: http://www.kcl.ac.uk/orgs/istd

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1.   Webb, S. and Webb, B. (1922) *English Prisons Under Local Government*, English Local Govenunent Series Vol.6, Longmans: London