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Where does the prison system go from here?

Special Edition

Interview: Rod Morgan

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Until February 2007 Professor Rod Morgan was Chair of the Youth Justice Board (YJB) for England and Wales, a post from which he resigned following disagreements with ministers over aspects of Government policy regarding youth justice issues. Prior to that he was HM Chief Inspector of Probation for England and Wales, before which he was an academic researcher and teacher for 30 years. Professor Morgan has authored many books and articles on aspects of criminal justice policy ranging from policing to sentencing including co-editing the *Oxford Handbook of Criminology* and a similar volume on probation. He has also held many posts at all levels within the criminal justice system including magistrate, police authority member, chairman of a community safety partnership, Parole Board member, commission member, inspector, government advisor, expert advisor to the UN, Council of Europe and Amnesty International on custodial conditions and the prevention of torture. He is also a community activist and campaigner, currently concerned with reducing the criminalisation of children. He is a director or trustee of half a dozen centres and voluntary groups working on criminal justice issues or with young people in trouble.

PC: How do you regard our relatively high national imprisonment rate?

RM: I deprecate it. I find it interesting that Ken Clarke is returning to Government as Justice Secretary and made those speeches, one in July at which I was present, pointing out that when he was Home Secretary in 1991 the prison population was about 42,000 and now is over 85,000. I take the same view as Ken Clarke: that such a high population is unproductive and unsustainable. I think it is difficult to say what the population should be but I see no reason why it shouldn't be much closer to 42,000. The thing we know about this issue is that the proportionate use of imprisonment has risen for most categories of offenders, with the recent exception of young offenders. If you compare like for like cases we are using imprisonment more and for longer than 10-20 years ago at a time when the crime rate and volume of crime has significantly reduced. This is a grotesque waste of money. I want to see the policy centre of gravity shift towards community interventions. My reasoning is that research shows that use of custody is generally criminogenic. That is, you're actually increasing the risk of reoffending.

PC: How likely do you think it is that this rate will be reduced?

RM: Well the Government has to look for big savings and you cannot save much money if you just reduce the population by small numbers. All that happens is that you save marginal amounts. Until we start closing establishments we will not make the significant savings that Ken Clarke needs to make. I find it difficult to see how he is going to do it. He can push existing trends further with young offenders because, quite remarkably, the number of children and young people in penal custody has reduced by about a third in the last 18 months. It has come down from over 3000 to around 2150. A number of factors have contributed to this trend, but we don't really know which of the factors have been the most significant. Further, it's difficult to see how Ken Clarke will achieve the same with the adult population, unless he undertakes some fairly drastic courses of action like executive early release, which will not be easy to sell politically. His immediate purpose seems to be to 'talk down' the prison population. So far he has managed to stabilise the numbers. If he keeps up this rhetoric it will help because the use of imprisonment is affected by the 'mood music' coming from the centre. However, until we start addressing the legislation for things like IPPs (Indeterminate Sentence for Public Protection) it is very difficult to see how significant population reductions, and thus expenditure savings, can be achieved. If the Government aim is to front load the savings, I don't really see how it can be done in the short term. The forthcoming Green Papers on Sentencing and the Rehabilitation Revolution should give us more guidance. I believe that the prison population will drop but it will be slow rather than dramatic.

PC: Is Britain a broken society and to what degree do you think prisons can contribute towards addressing social problems such as poverty, unemployment, family breakdown and anti-social behaviour?

RM: I think imprisonment has to be available for persistent, serious offenders who do not respond to treatment and programmes. However, I don't think Britain is broken. We do though have a significant problem with our dramatic wealth and income divide. With youth unemployment rates rising over the next few years this

divide will likely get worse. I heard the Chief Inspector of Constabulary talking about crime and anti-social behaviour problems in Manchester on the radio this morning and I agree the problems are fairly desperate in some communities. However, I don't think that taking people out of circulation if they won't respond to positive programmes or opportunities has to take the form it currently does, particularly when dealing with young offenders. We can be more creative with what custody looks like. There is need to engage the judiciary, to ensure their continuous involvement, with the ongoing implications of sentences. In the case of young offenders we have a provision on the statute book, section 34, which has not yet been used. Section 34 provides that a custodial sentence could, if the Secretary of State sanctions it, be served in places other than prisons. Places such as special schools or intensive fostering placements in the community combined with limits on movement or liberty. I find it bizarre that we have no open establishments for young offenders under 18. There is no 'half-way house'. We need to be more creative with things like contracts with offenders, that is if you do X you get privileges Y, to enable a more graduated process. My hope is that these creative measures come into place to replace the black and white options we currently have.

PC: To what degree do you think it will be possible to achieve a 'rehabilitation revolution', significantly reducing reoffending, given the current squeeze on resources?

RM: It will not be achieved unless we significantly shift the centre of gravity for spending. When I left the YJB we had a budget of roughly £460 million and about 64 per cent of that amount went on the cost of custody. The amount that we could allocate to the Youth Offending Teams (YOTs) for community work was peanuts. We must significantly shift this centre of gravity by getting the custodial numbers down. At a seminar I attended recently representatives of the voluntary sector agencies expressed concern that the money they receive from local authorities will significantly be cut over the next two or three years. Their fears are well grounded because local authority spending is going to be under extreme pressure. There are lots of excellent mentoring schemes around. I am President of one, Mentoring Plus in Bath. It doesn't cost a huge amount but most of the scheme's resources comes from the local authority who have signalled a cut of up to 50 per cent because will likely have little choice but to cut everything that is non-statutory. They are almost bound to do so even though everyone agrees that these organisations are really positive and in the long term lead to significant savings. They help prevent young people get into deeper trouble. The trick, therefore, will be to devise means of transferring savings in custodial provision to community-based preventive services.

PC: How do you think the actual prisoner experience has shifted in recent years? How is it likely to change in the next few years?

RM: In some respects it is a lot better. When I began work as a research officer in 1968 in prisons, we were comparing prison regimes in five establishments from high security to remand conditions in local prisons. Our local was HMP Winchester. Conditions there were a complete eye-opener to me. The remand conditions were appalling. Prisoners were locked up for 23 hours a day in traditional Victorian cells, with no sanitation, three or four to a cell. It was disgraceful. The people who got the best conditions then were, ironically, the long term sentenced prisoners in the high security establishments. They weren't subject to overcrowding whereas remand prisoners, supposedly subject to the presumption of innocence, were. They got virtually nothing because it was argued they had statutory rights; they could bring in their own clothing, they could have food sent in, in theory they could even have wine sent in although no one ever encountered it. In law they could even employ people to clean their cells. I was part of the Woolf enquiry into the 1990 disturbances. Things then were still quite bad in places like Strangeways (HMP Manchester) with injustices about which prisoners were seriously and rightly upset. Many of these conditions and issues have significantly improved. We are now much more decent and respectful in our treatment of prisoners. Basic standards have hugely improved.

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On the other hand, however, we have become so risk adverse that security concerns have been raised to disproportionate levels. We are not taking any risks with prisoners. These are mostly people who will shortly be released. If they are not given some responsibility then they will fail. High levels of security are also enormously expensive. In some other countries things are very different. On a recent study visit to Spanish young offender institutions I was struck by the almost complete absence of perimeter security. The arrangements in Spain would probably be regarded by many prison managers in

this country as a joke. But the evidence suggests that the Spanish authorities achieve a better response from their young prisoners than we do.

Overall, our prison staff are today better trained but they work in this serious risk adverse climate which will only change if our politicians show the kind of leadership which has been so conspicuously lacking in recent times. The problems with IPPs for example, were the responsibility of one Home Secretary and subsequent Home Secretaries failed to make necessary changes. I thought at the time that Ken Clarke made some serious errors in the early 1990s when he swept away, rather than fine-tuned, some important provisions in the 1991 Criminal Justice Act. But, paradoxically, he could be the politician brave enough to make the fundamental; changes now required. I find it significant that the person being most quoted in recent months is Barrack Obama's chief of staff, Rahm Emanuel, who said, 'We can't let a good crisis go to a waste'. I agree. We currently have a really good opportunity to stop doing things we should never have been doing in the first place. I'm more optimistic than I am pessimistic. The financial crisis will force politicians to say that we have to stop doing certain things that they weren't prepared to stop doing during the penal arms race of the last 10-15 years.

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PC: What do you regard as the biggest problems in the prison system?

RM: Without doubt the size of the population. This was the issue that the Woolf enquiry wrestled with. Woolf elegantly described it as the 'geological fault line' running through our penal system. This fault line is that the courts make the decisions about the use of custody but have no responsibility for the consequences. And the people responsible for the consequences have no control over the uptake. That statement is not entirely true because the probation service has the opportunity to exercise limited influence. But broadly it is true. Woolf recommended that there should be a cap on the population, and if prisons reached that cap then the Secretary of State should have to lay an order before parliament saying that they have reached the limit and could not take more prisoners. This is similar to the United States where there court orders limiting the overcrowding of certain institutions. This was practically the only recommendation in the Woolf Report not accepted by Government. Our main hope to address the prison population is now with the sentencing commission. This won't be easy. The big difference between here and other countries is not the proportionate use of imprisonment. It is the fact that we send people to prison for so long. It will be difficult to reverse that without the Government experiencing the wrath of the *Daily Mail* maintaining that they have gone soft on crime. But the task of public education must be undertaken. People are not made safer in their beds at night by expanding our use of imprisonment.

The next issue is that we need politicians to defend the penal services when there are breaches of security and things go wrong. Because if you're doing constructive things you have to take reasonable risks. The public needs to be told that any system that doesn't have the occasional mishap isn't doing its job properly. I was an advisor to the Council of Europe Committee for the Prevention of Torture (the CPT) which visits and inspects custodial establishments. We were in Sweden in 1992 and went to Sweden's maximum security prison. Within it they had a 'supermax' unit in which some Palestinian terrorists were being held. Two or three of them escaped with a gun the day before we arrived. You can imagine the hoo-hah. The prisoners were not recaptured for several weeks. What impressed me was that the Director General of the Swedish Prison Service wrote an article the following day in Sweden's leading national newspaper admitting that something had gone seriously wrong which would be investigated. But he also said that no prison should be escape proof. It could be. But it was his belief that a prison that was escape proof would not be humane. It would not be civilised. It would not be the sort of prison he would be prepared to run. I could not envisage that being said in Britain. But the Swedish Director General was backed by his political masters We need a bit of that.

PC: What are the major obstacles to prison reform?

RM: During six years in Whitehall I have had regular meetings with ministers and most of them read the *Daily Mail* and *The Sun* every morning. If they are getting excoriated in the popular press they get very twitchy. I want to see a bit of conspicuous political leadership and honesty. Prison works, but only in a very limited sense. While prisoners are inside, not when they come out. And most of them come out very soon.

PC: How do you see the idea of 'The Big Society' impacting on prisons? How do you see it impacting on young people on the cusp of entering custody?

RM: One of the great strengths of this country is its voluntary sector with which I have always been heavily involved. I'm a trustee of several organisations that work with kids in trouble. There is an enormous amount the voluntary sector can contribute in partnership with the state. I would like to see that better encouraged. It's not a magic bullet and it won't be easy because politicians tend to see the voluntary sector and volunteers as either a free good or providing services on the cheap. That's an error. You need to train, support, debrief and nurture volunteers for otherwise you don't retain them. High turnover of personnel is disastrous. This is true of things like mentoring schemes. I think its really important that offenders who are likely to have multiple problems, friendlessness, lacking in achievement, homelessness, joblessness, drug and alcohol problems — they need positive commitment and continuing relationships with people they can trust. The voluntary sector and volunteers have a huge amount to contribute. But it has got to involve a change in attitude by the statutory services.

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Iain Duncan-Smith's Centre for Social Justice, from which a lot of this has come, invited me to join a working party on imprisonment. We produced a report entitled *Locked Up Potential*. Now I am on their working party on youth justice. What is most complained about by the voluntary sector is that the Prison and Probation Services are like Fort Knox. There are so many obstacles. Like the over elaborate CRB checks. The Probation Service in England and Wales is different to that in Scandinavia or Japan. There you have professional case managers who do not supervise most offenders but instead supervise volunteers who supervise most offenders. There is a small pool of professionals who allocate cases and support, train and oversee what the volunteers do. The volunteer is only paid expenses and is seeing just one or two offenders. I always thought it a paradox that we have what likes to describe itself as the most 'professional' Probation Service in Europe, yet we have the highest imprisonment rate. The point I'm making is that our probation service became so 'professional' that it almost disparaged volunteers arguing that only 'we', the professionals, can do the business. I don't agree. There is no shortage of volunteers if they are encouraged, supported and trained and I would prefer to see a service model more akin to the Scandinavian approach. That would represent what I think might be meant by the Big Society. Probation officers and youth offending team workers don't generally go to offenders' homes any longer and work out of offices that look increasingly like prisons. It's not a sensible approach.

PC: Are there other ways in which the charitable sector and citizens can make a new and different contribution to prisons and rehabilitation?

RM: In 1979, together with Roy King, I provided evidence to the May committee suggesting key principles for prisons. One of those principles was 'normalisation'. Meaning that the Prison Service should, when providing services to prisoners, wherever possible use the same agencies as provide the same services in the community for example literacy programmes. This is tied up with the Woolf recommendation of community prisons, which has never been implemented. The normalisation principle has to some extent been adopted. Medical services in prisons are now integrated with those in the community. We could have more and better integration generally if we could get the population down so that prisons were genuinely local with prisoners being held within, say, 30-50 miles of their community roots. I'd like to see that happen so that the walls of the prison could be more 'permeable'. There are lots of inspirational people out there in the community who could do valuable transformative work with prisoners. I am a trustee of a group called Dance United. We do contemporary dance programmes with young people. Not because we are trying to produce contemporary dancers but because the dance routine is a metaphor for broader learning issues. How do you get kids who can't read and write aged 15 and who can't concentrate or keep still to dance? Dance serves as a metaphor for discipline, concentration, focus and teamwork, all of which are essential to all work discipline and learning. All the results from the independent evaluation suggest that kids who do the programme go back to education and progress to a

different level. These are huge untapped resources of this sort that could all be part of the big society. But not on the cheap.

PC: On resigning from the YJB in 2007 you said 'We've got to invest more in early prevention work, with children who're starting to get into trouble, rather than locking up more and more young people after the horse has bolted.' How do you think that preventative aim can be achieved?

RM: Paradoxically it is being achieved. I resigned because I fell out with ministers for two reasons. One was that the population in custody was rising when ministers had endorsed a YJB aim to get the population down. I pleaded with Ministers to make speeches backing that objective. But they failed to do so. The second thing was that we were criminalising more and more children. All other things being equal the numbers being criminalised increased by about 30 per cent during my tenure. The principal reason was that the Home Office fixed targets for the police about offences brought to justice. The police tended to focus on the easiest group to arrest and criminalise; kids acting in groups on the street. I pleaded for that to change and got nowhere. You could say I was a failure because since I resigned significant progress has been made on both fronts — less criminalisation and fewer young people in custody. Or you could say that my message has now been learnt. That there was a lag effect. That sense eventually prevailed. The police targets have gone. I'm pleased at the progress, although it's not that dramatic. We've got back to where we were in 2001. So we have a long way to go to get to the same level as in the early to mid 1990s. I think my argument is being heeded and with this spending round I think both of those trends will be taken further, which I will welcome.

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PC: Prisons have an extensive system of managerial monitoring and regulation, including key performance targets, audits, inspection and surveys of staff and prisoners. Is this affordable or necessary? Should prisons be the subject of deregulation?

RM: If you set a target people will invariably achieve it. But they will also stop doing things not measured. For example, time out of cell. Is something worthwhile being done while out of cell? The quality of that is difficult to capture. Then there is the shaping of the data for inspectors, which is why the Chief Inspector of Prisons has set her own expectations. I remember during the Woolf enquiry that the data we had at the time suggested that the regime in the affected prisons had actually improved in the preceding two years. You cannot be an inspector without realising there is a shaping of the books. This is not limited to the criminal justice system. Overall, I am not opposed to targets. But they should be modest in number and we should be spending as much time looking at the quality rather than the quantity. The police targets were not entirely stupid. But the police got as many 'brownie points' for arresting and targeting kids engaged in anti-social behaviour as they did for spending vast resources over lengthy periods detecting and prosecuting organised gangs of adult criminals. Not sensible. Another example is Devon and Cornwall. There the police trained all their beat officers in restorative justice so that if kids were out of control they could go and see the parents to make sure some sort of restorative process took place. However, their officers got no national 'brownie points' for doing it. They were trained in RJ, but little of it was done because it wasn't organisationally rewarded. Targets are fine if they're aligned with decent qualitative evaluation.

PC: What role should the commercial sector have in imprisonment?

RM: I'm a pragmatist. When the idea of the private sector running prisons was first mooted by the House of Commons Penal Affairs Committee in the early 1990s I was appalled and opposed it. In retrospect I think the introduction of private management has brought benefits to the system as a whole, The Prison Officers Association (POA) was the most conservative and, recalcitrant union imaginable, opposed to all change, in the 1970s and 1980s. Prison governors then were frank that the problem of running prisons was not controlling prisoners but controlling the staff. That was why the May Committee was appointed. Those problems greatly reduced when the system was opened up. Competition meant that the state sector had to start matching the innovative practices of the private sector. Further, the private sector tended to recruit senior managers from the Prison Service and those managers didn't want POA members. I'm not persuaded that we need to push privatisation further, however. I favour the model in most other countries of contracting out particular services. That often represents 'normalisation'. However, some of the best relationships in what I'll call the old Prison Service were between prisoners and trade officers. They knew their prisoners. They practiced and taught practical skills. That was a really positive aspect of the way things used to be.

PC: There are plans to freeze public sector pay and make fundamental changes to pensions and employee benefits. What impact is this likely to have on existing prison staff and for the future workforce?

RM: I'm not really conversant with current rates of pay. But I don't think people in the Prison Service are overpaid. In some public sector spheres such as the health service, things have got out of hand and I think we are going to have to scale back some of the private sector practices that have been brought into the public sector. Bonus systems, for example, are generally invidious. We will all have to scale back and there will be understandable resistance. But I don't think the pay of the Director General is grotesque and governor pay rates seem reasonable. I understand that the new Chief Inspector of Prisons is being paid less than the outgoing one. That's probably the direction things will necessarily have to go and I think it's reasonable.

PC: How do you think industrial relations in prisons are likely to develop over the next four years?

RM: They will probably be a bit turbulent. But it can't be worse than it used to be. I think calm will prevail. I doubt big national strikes will happen. I don't think we are Greece. We are closer to the Irish Republic and everyone in the public sector there has had huge cuts in salaries. We won't go that far and I don't think we will have a spate of strikes. All the evidence is that the public is supportive of the fairly stringent measures to get down public debt; the argument is about how fast it comes down.

PC: How should prison professionals make their voices heard in the current debates about prisons and imprisonment? Is anyone listening?

RM: If you are immersed in the prisons world you pay attention to everything everyone is saying. But prisons and prisons policy is pretty peripheral to the concerns of the general public. I have always been a staunch advocate of strong professional associations. When I became Chair of the YJB, I went out of my way to encourage the formation and strengthening of an association of Youth Offending Team managers. This reversed the policy of my predecessor, Lord Warner, who I think saw professional associations as trouble. My line is that staff in the major public services need strong professional associations to enhance their self respect and develop their corporate identity. They know about issues relating to practical delivery and what works on the ground. They should be pressing for sensible policy development. So I deprecated the fact that the national association of chief probation officers (ACOP) for example was pretty well lost when the Probation Service became a national service. We've seen some idiocies promulgated by central management in some of our key services which might have been better resisted by senior staff in a sensible, professional, well thought out way. So my view is that local managers need a professional collective voice. If it causes a bit of agro for the centre then good because sometimes the centre introduces measures that are daft, and the people who know how daft they are the people who have to implement them on the ground. When it comes to prison design, for example, the people who actually work and manage on the front line know better what is needed than most prison architects. Likewise with shift patterns, and so on. I think a professional association is good to filter that knowledge. There should be operational staff representation on the key policy making groups. There is of course a danger you will get the restrictive practice viewpoint. But if there is good quality central management they will listen and ensure that practical experience is represented at the top table in a coherent fashion. When I became Chair of the YJB I discovered, for example, that we required every YOT in England and Wales to return mountains of data every quarter which were never analysed. Gathering and returning data is costly. Unanalysed data represents organisational waste. It would have been better had those practices been challenged more effectively by YOT managers who were very aware and annoyed about sending in data from which there was no practical product.

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