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Editorial Comment

It is common to hear the modern world described as increasingly 'globalized'. Although this term is uncertain and contested, it often refers to a range of ways in which the world has become more integrated, in particular through developments in trade, information technology, the sharing of ideas and practices, and governmental co-operation.

The practices of imprisonment have themselves become the subject of globalization. It has been argued that ideas about prisons have become homogenised across nations and replicate wider aspects of modern society. In particular, it has been argued that the use of prisons has become more politicised and popularised. This has fed what has been described as 'new punitiveness'¹ with growing use of imprisonment, increasing use of mandatory and indeterminate sentencing and the promotion of harsher conditions. It has also been argued that 'managerialism' has been increasingly used not only as a way of making public services such as prisons more efficient, but also as a way of identifying and directing resources towards the policing and control of 'problematic' groups². However, globalization has also been an opportunity to promote and disseminate human rights as a means of improving practice³.

It would be wrong, however, to suggest that globalization is sweeping away all that has gone before or is dramatically transforming beyond recognition society generally or specific institutions, such as the prison. In many ways, prisons remain the same, with buildings that sometimes date back two centuries; practices, routines and cultures that are deeply rooted; and indeed there is nothing new about the realities of gender, race and poverty in the prison population. These local, traditional features are important and enduring⁴. The nature of globalization is perhaps best understood as a dynamic interaction between the global and the local, between the modern and the traditional.

This edition of *Prison Service Journal* has an international flavour, with articles from four continents. A number of the articles consider specific, local aspects of prison practices and cultures. Sacha Darke discusses the nature of staff-prisoner relationships in Brazilian prisons, which are characterised by inter-dependence and strong bonds of mutual trust and support, where prisoners take on significant responsibility for the operation of the institution. Katarzyna Celinska addresses the impact on women prisoners in USA of separation from children and family and suggests how this may be ameliorated. Francesca Vianello offers an ethnographic account of an Italian prison, drawing out the links with wider issues of power and inequality. From the review section, Steve Hall discusses a book addressing the failures of drug policy in New Zealand. Although these articles are based in specific local situations and reflect the uniqueness and distinctiveness of those contexts, the issues will

also be familiar to those working in prisons around the world. Together these articles illuminate that, although there are local variations, there is also a sense in which the prison and the problems of imprisonment are themselves globalized in as much as they are replicated and repeated across different nations.

Three articles also address the global financial crisis and its impact. Both Michael Cavadino in relation to England and Wales, and Mary Rogan in relation to Ireland describe how the respective governments responded to the crisis with policies of austerity and proposed moderation in the use of imprisonment. In England and Wales, Cavadino argues that this met with political resistance and suggests that this illustrates that such changes cannot take place for economic reasons alone. Instead, they are situated within a wider political economy, which shapes the role of the state and the nature of social power. He argues that this political economy can be detected in the close relationship between the welfare regime in different countries and their use of imprisonment. In contrast, Rogan suggests that recent court decisions in relation to financial crimes suggest a potential change in direction, shifting the attention of the criminal justice system towards the crimes of the powerful. She therefore tentatively hints at a change in the wider political economy. The third article to address the financial crisis is even more optimistic. Chris Fox, Kevin Albertson and Kevin Wong provide a critique and develop the theoretical case for 'Justice Reinvestment'. This is an approach that argues that by reducing the use of imprisonment, the resources freed up can be used to better effect addressing social problems in the areas where prisoners come from and improving services that prevent crime. This is an approach that has been gaining momentum as various governments face the realities of economic restraint. Fox, Albertson and Wong suggest that this is an approach that has significant potential and offer a way ahead to improve its theoretical basis and potential appeal to policy makers and communities.

This edition draws together a range of articles from around the world. Together they highlight that prisons face a series of similar problems, including staff-prisoner relationships, the impact on families and the importing of social problems into the prison. Although the precise contours of these issues vary from place to place, they will be familiar to people working in prisons around the globe. The articles also indicate that prisons are not insulated from wider international trends, not only economics, but also ideas and practices that can be termed as the political economy. Viewing this optimistically, the development of Justice Reinvestment illustrates that those working in and interested in prisons need not simply be subject to or observers of global change, but can be enabled by this to become agents of change.

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1. Pratt, J. Brown, D., Brown, M., Hallsworth, S., and Morrison, W. (eds) (2005) *The new punitiveness: Trends, theories, perspectives* Cullompton: Willan
 2. Feeley, M. and Simon, J. (1992) *The New Penology: Notes on the Emerging Strategy of Corrections and its Implications in Criminology* Vol.30 No.4 p.449-74
 3. For example International Centre of Prison Studies see <http://www.prisonstudies.org/>
 4. Kennedy, P. (2010) *Local lives and global transformations: Towards world society* Basingstoke: Palgrave Macmillan.

King Canute, Economics, Politics and Penal Policy

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The Coalition government initially seemed likely to pursue policies which might lead to a significant reduction in the prison population. By the time the Legal Aid, Sentencing and Punishment of Offenders Act 2012 was enacted such hopes had been dashed. The failure of the promised new direction in penal policy raises interesting questions about the roles of economics, politics and ideology in shaping such policies.

The Promised New Direction

When the Coalition government came to power in May 2010, three factors combined to give some hope to those who wished for a penal policy which would seek to reduce the prison population from the record level of 85,000 it had just reached in April. The first was the presence in the government of the Liberal Democrats. The second cause for hope came with the appointment of Kenneth Clarke as Lord Chancellor and Secretary of State for Justice. The third was the fact that the Coalition came into government pledged to slash the existing budget deficit: surely then there was a chance that the £4 billion annual cost of imprisoning offenders could be a target for savings?

Admittedly, one would not normally look to a Conservative or Conservative-led government to pursue any policy that might be construed as being soft on criminals. The Conservative Party has usually portrayed itself, generally successfully, as the 'tough on crime' party. This Conservative stance was to some extent neutralised by the 'tough on crime and tough on the causes of crime' repositioning of the Labour Party by Tony Blair, but the Tories were never actually outflanked on law and order by New Labour, despite the continued rise in prison numbers to what were then all-time record levels under the Labour government of 1997-2010. Prior to the 2010 election, the Conservatives had promised a more restrictive approach to the early release of prisoners, increased sentencing powers for magistrates and mandatory custodial sentences for carrying knives. They originally proposed to expand the capacity of prisons by 5,000 places more than Labour's own expansion plans, although they were forced to

admit in late 2009 that the recession had rendered this unviable. On a less crudely punitive note the Conservatives also planned a 'rehabilitation revolution' to be brought about by a system of 'payment by results' so that agencies with responsibility for offenders would be paid more for producing lower reoffending rates, with a much greater role being envisaged for private and voluntary agencies. Nevertheless, overall it could be said that the Conservatives' approach was the most punitive of the three main parties. That of the Liberal Democrats — who favoured restricting the use of short sentences, moving drug addicts and mentally ill offenders into alternative secure accommodation, expanding restorative justice schemes and cancelling the Labour government's prison building programme — was the least so. The coalition agreement of May 2010 included the Conservatives' 'rehabilitation revolution' and a promise to explore alternatives to imprisonment for mentally ill and drug offenders. Otherwise it squared the circle temporarily by announcing a review of sentencing policy.

Kenneth Clarke himself provided some grounds for believing that the outcome might be a lesser dependence on the sanction of imprisonment. There was some irony in this, as Clarke had played a significant role in kick-starting a prolonged rise in the prison population when he had been Home Secretary in John Major's government in 1992-3. Previous Conservative Home Secretaries from 1987 to 1991 — in something of a departure from typical Tory approaches in recent decades — had sought to limit prison numbers, a strategy that found legislative embodiment in the Criminal Justice Act 1991. Once this Act was implemented, however — and did indeed temporarily manage to achieve a reduction in the prison population — a political and media backlash led to Clarke repealing key provisions in the Act and starting the penal system moving in a more punitive direction. Now in 2010 however, Clarke was firmly positioned on the liberal wing of the Conservative Party and his initial pronouncements on penal policy showed evidence of a definite resolve to instigate a change in direction in penal policy which would involve a lesser use of imprisonment. As early as June 2010 he publicly mused 'why is the prison population twice what it was when I was the Home Secretary not so very long ago?'

(*Guardian*, 14 June 2010). In a number of speeches and announcements thereafter he reinforced this message, pointing out that there was no clear correlation between prison populations and crime rates (*Guardian*, 14 July 2010) and saying that there should be greater emphasis on rehabilitation and community sentences rather than short sentences of imprisonment. The signs were that Clarke at this stage particularly favoured some sort of new statutory restriction on the passing of short custodial sentences — such as the presumption against passing prison sentences of three months or less as introduced in Scotland by the Criminal Justice and Licensing (Scotland) Act 2010 — as advocated by the Liberal Democrats, the Prison Governors' Association and Napo.

Resistance and Retreat

Already, however, opposition to this approach was building from voices on the Conservative right wing (including former Tory leader and Home Secretary Michael Howard), while reservations about the possibility of restrictions on short term sentences were voiced by the Magistrates' Association. Would this be a turning point or a false dawn? Would the government maintain a less punitive path in the face of these opposing voices, or would Clarke's attempts at liberal reform come to grief — like the attempt by a previous Conservative government in the early 1990s which Clarke himself had played a significant part in derailing?

It was not long before there were signs of potential reforms being stymied by 'populist punitiveness'. In July 2010 junior Justice Minister Crispin Blunt made a liberal speech on penal policy in which he announced the rescinding of an order forbidding prisoners from holding parties with staff permission. (This order had been made by Labour Justice Secretary Jack Straw in 2008 following a media campaign, an incident which Blunt described as 'typical of the last administration's flakiness under pressure'.) Blunt's announcement was immediately followed by a *Daily Mail* headline (23 July 2010) 'Now You Pay for Prison Parties' and then by the news that Prime Minister David Cameron had overturned the decision.

The Coalition's review of sentencing policy led to the Green Paper *Breaking the Cycle* published in December 2010¹. Absent from the Green Paper were any attempts to restrict courts' statutory powers to pass

short prison sentences. Also absent was another idea previously trailed by Clarke to reduce the length of 'tariff' (minimum imprisonment) terms for murderers; press reports suggested that this omission was at the insistence of Prime Minister David Cameron. Still, the Green Paper's proposals were designed to reduce the demand for prison places by 6,450, saving £210 million per year from the Ministry of Justice's budget. About half of this reduction (over 3,000 places) was expected as a result of a single proposal: increasing the maximum 'discount' from sentences given to defendants who plead guilty at the earliest opportunity from one third to 50 per cent. The Green Paper also reiterated the Government's plan for a 'rehabilitation revolution', and pledged more diversion of offenders with mental health and drug problems to community provision. Although courts' powers to pass short prison sentences would not be abolished or restricted, the Government would seek greater use of financial penalties and community sentences, with an emphasis on 'strenuous unpaid work'. The strategy now seemed to largely consist of a revived version of the 'strategy of encouragement' and 'punishment in the community' which had been tried before with no lasting success: attempting to persuade sentencers that, now non-custodial penalties have been toughened up, they can be used more often in preference to short prison sentences.

This already diluted package, and especially the central proposal to increase sentencing discounts, ran into serious difficulties. In May 2011 the media and the Labour Opposition targeted the discount proposal emphasising the crime of rape ('Soft Justice for Rapists: Rapists will have their jail terms halved if they admit guilt' — *Daily Mail*, 18 May 2011) and in defending the proposal Clarke made unfortunate remarks in a radio interview which seemed to suggest that not all rapes were serious. He reportedly attempted to partially salvage the discount proposal by exempting more serious offenders, but was eventually forced to drop the proposal entirely.

In June 2011 the government published the Legal Aid, Sentencing and Punishment of Offenders Bill (LASPO). (A Liberal Democrat MP reportedly claimed that the word 'punishment' had been specifically included in the title in order to 'give the right image to the *Daily Mail* and the *Daily Express*'.²) The Bill, which became an Act in 2012, by now of course contained no restrictions on short sentences or increased discounts for guilty pleas. It did abolish New Labour's

Would this be a turning point or a false dawn?

1. *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*, Cm 7972.
2. Alan Travis, *Guardian Politics Blog* 20 September 2011.

disastrous indeterminate ‘imprisonment for public protection’ sentence, albeit replacing it with a ‘two strikes and you’re out’ mandatory life imprisonment for serious offenders. There was also to be a new minimum sentence of six months’ imprisonment for threatening with a knife or other weapon. The ‘rehabilitation revolution’ survived, as did plans to divert some mentally disordered offenders from prison and the criminal justice system and foster greater use of restorative justice. Of LASPO’s miscellany of provisions perhaps the only ones likely to reduce the prison population to any noticeable extent were the abolition of imprisonment for public protection and a restriction on the powers of courts to remand unconvicted defendants in custody if they seem unlikely to ultimately receive a custodial sentence. Overall this revised package seemed likely to ensure that the prison population would not be reduced, but continue to rise. Indeed, by March 2012 Kenneth Clarke was overtly promoting tougher community sentences for their own sake, abandoning even any vain hope that they might be used as alternatives to custodial sentences (‘Community sentences are not an alternative to short prison sentences. They must be made more effective punishments in their own right’.³)

Thus the story of Kenneth Clarke’s penal policy was largely one of well-intentioned proposals for reform being stymied by political forces, the media and populist punitiveness. Clarke was forced to retreat step by step on proposal after proposal until very little was left and he could even be said to be moving in the opposite direction from the one he had initially signalled. His attempt to hold back the punitive tide of penal policy had achieved about as much success as King Canute’s defiance of the forces of nature. Indeed it had already seemed doomed when in the autumn of 2011 (following the urban riots of that summer) the prison population reached more all-time records, now exceeding 88,000. September 2012 saw the *coup de grace*. Clarke was removed from his post as Justice Secretary and replaced by his Conservative colleague Chris Grayling, who swiftly asserted that he had no intention of reducing the numbers of people in prison while simultaneously announcing that almost all

community orders would henceforth contain a punitive element. It had been a false dawn.

Economics, Ideology or Politics?

There is a puzzle here. If economics — and in particular the alleged imperative to bring down the structural national budget deficit — is as powerful a force determining government policy as is often assumed, why did Clarke’s attempt to pursue his cost-cutting reforms fail? It is not that economic and fiscal imperatives have been playing no part at all in penal developments and policy. We have already noted how the Conservatives, even in opposition, had to scale back

their plans for prison expansion for perceived economic reasons. Within cuts imposed to the Ministry of Justice budget of nearly a quarter under the Coalition’s spending plans, the prison budget has also been cut (though so far by a lesser amount). But since Clarke’s plans to save an estimated £210 million by reducing the prison population bit the dust, the search for savings has mostly consisted of freezing the building of new prisons while closing some old ones and allowing more doubling up of prisoners in cells. Pursuing savings by measures which could be perceived as ‘soft on criminals’ was ultimately deemed politically

unacceptable. The story looks not so much one of policy ideas coming to grief through hitting an economic ‘bottom line’, but more like an economically desirable package hitting a bottom line drawn and enforced by punitive ideology.

This might have surprised some eminent theorists of punishment, starting in the 1930s with Rusche and Kirchheimer and their pioneering work of Marxist penology, *Punishment and Social Structure*.⁴ They argued that the economics of any society directly determined penal developments. For example, they offered an economic explanation for the rise of the ‘house of correction’ (the forerunner of the modern prison) from the end of the sixteenth century onwards. Early capitalism needed more labour power, so it became uneconomic to kill and mutilate offenders by capital and corporal penalties. It was more profitable for offenders to be incarcerated and set to productive work. Punishment could therefore be used to ‘fill out the gaps in the labour

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3. Ministry of Justice (2012), *Punishment and Reform: Effective Community Sentences*. Consultation Paper CP8/2012: Foreword.

4. Rusche, G. and Kirchheimer, O. (1939), *Punishment and Social Structure*. New York: Columbia University Press.

market'. Even where this was not the case, Rusche and Kirchheimer argued that the choice of methods of punishment is largely influenced by fiscal factors, such as how much a punishment costs to administer. Similarly, Andrew Scull's 1977 study of 'decarceration' — the move towards creating 'alternatives to custody' in the 1960s and 1970s — proposed that this development was primarily a product of a fiscal crisis which led to a need to deal with offenders more cheaply in the community rather than in prison.⁵

Unfortunately for these theories of 'economic determinism', they only intermittently seem to fit the actual historical facts when applied to punishment. Rusche and Kirchheimer themselves had to admit that imprisonment became the standard method of punishment at a time when the demand for prison labour had *fallen* as a result of technological and other developments. Scull's 'decarceration thesis' is similarly undermined by much historical evidence relating to the use of imprisonment. For example, between the 1940s and mid-1970s the Netherlands provided almost a textbook example of penal 'decarceration' which spectacularly fails to conform to the fiscal crisis argument, for the dramatic reduction in the Dutch prison population mostly occurred during a time of unprecedented prosperity. Conversely, the Netherlands subsequently experienced a significant expansion of prison numbers which coincided with a period of heightened economic uncertainty. Moreover, as economic problems in the West deepened in the 1970s, prison populations in the US, Britain and a number of other countries rose.

Simple economic determinism as an explanation for penal developments seems simply not to work, as the travails of Kenneth Clarke again appear to bear out. Scull, Rusche and Kirchheimer were all forced to amend their theses by introducing the notion of *ideology* — potent social ideas which Marxist thinkers such as Antonio Gramsci and Louis Althusser have theorised as interacting with a society's 'economic base' in a complex dialectical manner.⁶ Arguably, ideology is even more powerful than could ever be allowed by Marxist approaches, which traditionally see society as consisting of an 'economic base' that (in Althusser's phrase)

Political dynamics between and within the main parties have certainly been one factor in the saga of Coalition penal policy, with the Labour Opposition playing its part.

determines matters 'in the last instance'. Certainly at times like this it seems as if it is punitive ideology rather than economic forces that is ultimately calling the shots.

The workings of the political realm are one factor which simple economic determinism fails to encompass satisfactorily. Political dynamics between and within the main parties have certainly been one factor in the saga of Coalition penal policy, with the Labour Opposition playing its part. Following the departure from top-level politics of such icons of penal harshness as Michael Howard and 'New Labour' architects Tony Blair and Gordon Brown, there were some signs that the penal policy 'arms race' — whereby each major party accuses the other of being 'soft on crime' resulting in ever-escalating harshness of punishment — might be coming to an end. On his election as Labour leader in September 2010, Ed Miliband declared: 'when Ken Clarke says we need to look at short sentences in prison because of high re-offending rates, I'm not going to say he's soft on crime', and his Shadow Justice Secretary Sadiq Khan similarly declared: 'we won't accuse the government of being soft on crime just for the sake of it.' (Guardian, 7 March 2011). Yet Labour, including Miliband and Khan, were prominent in the torpedoing of Clarke's proposal to increase sentence discounts, while Labour also opposed plans to limit custodial remands and to abolish imprisonment for public protection. Meanwhile, Liberal Democrat support for Clarke's policies could best be described as muted.

Political Economy and Punishment

But economics may still also be of relevance — albeit not in a simple deterministic manner whereby whatever is economically functional will automatically happen. There may be more subtle connections between economic 'realities', ideologies and penal practices that are worth exploring.

If we compare different countries with each other, it is possible to discern some relationships between their *political economies* — and in particular their welfare systems — and the severity of their penal practices.⁷ Modern Western countries can be

5. Scull, A. (1977), *Decarceration: Community Treatment and the Deviant — A Radical View* (1st edn). Englewood Cliffs, NJ: Prentice-Hall.
6. See generally Cavadino, M. Dignan, J. and Mair, G. (2013), *The Penal System: An Introduction* (5th edition). London: Sage Publications, ch. 3.
7. Cavadino, M. and Dignan, J. (2006), *Penal Systems: A Comparative Approach*. London: Sage Publications.

categorized as either 'neo-liberal', 'conservative corporatist' or 'social democratic' nations. 'Neo-liberalism' refers to the (politically conservative) free-market capitalism exemplified by the United States, but also these days characterizing to a lesser extent countries such as Britain, Australia and New Zealand. The general ethos of neo-liberalism is one of *individualism* rather than communitarianism or collectivism. Under neo-liberalism the welfare state is minimalist, consisting mainly of means-tested welfare benefits, entitlement to which is often heavily stigmatized. The free market, low tax economic system creates much material inequality, and this results in the social *exclusion* of many people who find themselves unable to participate to any great extent in civil, political and social life. In 'conservative corporatist' countries (such as Germany and other nations in continental Western Europe), important national interest groups (notably organizations representing employers and workers) are integrated with the national state and are expected to act in accordance with a consensual 'national interest'. In return, members of these groups enjoy welfare benefits that are more generous than those found in neo-liberal countries. The ideology and culture of conservative corporatism is a *communitarian* one which seeks to *include* and integrate all citizens within the nation, via individuals' membership of interest groups. Conservative corporatist states offer their citizens greater protection against the vagaries of market forces and produce significantly less inequality than does neo-liberalism, but they are not strongly egalitarian. Their welfare states enshrine and perpetuate traditional class, status and economic divisions between different groups of citizens who are entitled to different levels of welfare benefits. A third arrangement (on the political left) is the 'social democratic' version of corporatism — more egalitarian than the conservative version — whose prime example is Sweden and the other 'Nordic' countries. These countries share the consensual, communitarian approach of conservative corporatism, but their

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Comparing countries whose political economies fall into these three categories, we find that it is the neo-liberal countries (such as the USA and Britain) which have the highest rates of imprisonment, while the social democratic countries have the lowest. The archetypal neo-liberal country, the USA, has the highest *pro rata* prison population in the world at 716 prisoners per 100,000 population. England and Wales — still not as neo-liberal as the US — score 149; conservative corporatist Germany is on 80; while social democratic Sweden has a figure of 70.⁸

One likely reason⁹ for the existence of this relationship between political economy and rates of punishment is this. In these different kinds of political economy we find different *cultural* (or *ideological*) attitudes towards our deviant and marginalized fellow citizens. (This is perhaps more true among the 'political class' of policy-makers than among the general public.) The *neo-liberal* society tends to *exclude* both those who fail in the economic marketplace and those who fail to abide by the law — in the latter case by means of imprisonment, or even more radically by execution. Both types of exclusion are associated with a highly individualistic social ethos. Economic failure is seen as the fault of the individual, not the responsibility of society — hence the minimal, safety-net welfare state. Crime is likewise seen as entirely the responsibility of the offending individual. The social soil is fertile ground for a harsh 'law and order ideology' (or 'populist punitiveness'). On the other hand, corporatist societies like Germany — and to an even greater extent, social democratic ones like Sweden — have traditionally had a different culture and a different attitude towards the failing or deviant citizen. Corporatist and social democratic states offer their citizens a far greater degree of protection against the vicissitudes of market forces and seek to ensure that all citizens are looked after. Similarly there is a more communitarian, less individualistic attitude towards the offender, who is regarded not as an isolated culpable individual who

8. Source: International Centre for Prison Studies, *World Prison Brief* website at <http://www.prisonstudies.org/info/worldbrief/>, accessed 31 January 2013.

9. For an investigation of a number of possible reasons for this link, see Cavadino, M. and Dignan, J. (2010) 'Penal Comparisons: Puzzling Relations', in A. Crawford (ed.), *International and Comparative Criminal Justice and Urban Governance: Convergence and Divergence in Global, National and Local Settings*. Cambridge: Cambridge University Press, pp. 193–213.

must be rejected and excluded from law-abiding society, but as a social being who is still the responsibility of the community as a whole. A more developed welfare state goes along with a less punitive penal culture. The most developed welfare states of all — the Nordic social democracies — also have the lowest imprisonment rates among these Western nations.

This association between types of political economy and levels of punitiveness may also go a long way towards explaining the rise of the 'new punitiveness' of recent decades: as neo-liberalism has advanced, so has law and order ideology. It is no coincidence that the United States has since the 1970s been leading the world in the direction both of neo-liberalism and of the new punitiveness, for the two go together. And this also helps to explain why so many other countries have gone some distance down the punitive road, as so many of them have adopted neo-liberalism to a greater or lesser extent. Britain is very much a case in point, despite retaining a relatively well-developed welfare system compared with that of the US. The Conservative governments of 1979-1997 moved Britain decisively towards neo-liberalism, a shift their New Labour successors accepted and indeed in most respects embraced. And the 'new punitiveness' towards offenders came along with it.

So perhaps it should come as no surprise that recent attempts to make penal policy less punitive have

proved to be an uphill struggle up a very steep gradient — indeed, to date, a losing battle. For the general thrust of the Coalition government's policies clearly represent a further move in the direction of neo-liberalism. Markets are to remain at least as free as ever (with only a small amount of extra regulation to be placed even on the banks, whose excessive freedom and use of it ushered in the economic crisis in the first place). Taxes on the highest earners are actually being reduced, while public spending on welfare benefits is being slashed, with 'targeting' (i.e. means testing) of many benefits being introduced or increased. Despite the economic argument in favour of reducing imprisonment, because neo-liberalism and punitiveness go hand in hand it would actually be anomalous for a country to become more neo-liberal but less punitive at the same time — which was what Kenneth Clarke was trying to achieve.

This is not to say that it would be impossible for such a mission to succeed. We should not underestimate what human beings can achieve by determined combined efforts in even the most unpromising of circumstances. Uphill struggles are sometimes won. But if in our society and our politics we continue to care little for our fellow citizens generally, it will be hard for more humane penal policies to prevail — however much economic sense they make.

Prison Policy in Times of Austerity:

Reflections from Ireland

Dr Mary Rogan is a Lecturer in Socio-Legal Studies at Dublin Institute of Technology and Chairperson of the Irish Penal Reform Trust.

Introduction

The catastrophic collapse in the once booming Irish economy has led to swingeing budgets, huge falls in property prices, rising unemployment, cut backs in public services, and the ignominy of a bailout financed by the International Monetary Fund, the European Union and the European Central Bank. As has been the case for all aspects of public expenditure, prison policy-makers are now regularly using the language of efficiency and value for money when discussing plans for Ireland's prisons. The state's current economic woes are having some interesting effects on the direction of prison policy. Plans are afoot to reduce the prison population, after decades of growth, and despite the straitened financial circumstances, investment is forthcoming for the improvement of long-neglected prison conditions. Perhaps reflecting the public mood concerning the causes of recession, the sentencing of fraud offences is becoming more high profile, and, it appears, more harsh.

This article examines the effect of the current recession on Irish prison policy. To do so, it explores the ways in which previous times of economic crisis played out in Irish prisons. It assesses the impact of the 'Celtic Tiger' years of economic growth on prison policy before examining how current austerity policies are affecting the numbers in prisons, prison conditions, and sentencing.

Previous recessions and their effect on prison policy

Ireland is no stranger to economic hardship. The exceptional growth registered in the 1990s and 2000s is precisely that — exceptional. Prior to this, the Irish economy was often in recession, and stagnant for long periods.

The establishment of the Irish State

The Irish State gained its independence from Britain in 1922, and, after an ensuing brutal civil war, the State's new rulers were left with a large financial bill as well as deep political division. Vast sums had been spent on the army and compensation payments for property damaged during the war. Attempting to recover from the damage of the Civil War period, the Irish State's early years were characterised by financial retrenchment and economic uncertainty¹.

The Cumann na nGaedheal political party which formed the State's first government became inordinately preoccupied with recovering from this situation, and balancing the state's books, arguably more so than the state's financial status required. Vigorous economic retrenchment was considered to be the ultimate benchmark of fitness to govern. This was all the more important in order to prove that Ireland was able to look after its own affairs².

The new Government pursued a 'laissez-faire' economic policy, which was combined to an ungenerous approach to social policy. Social welfare provision was very slow to develop, the expansion of unemployment assistance was strongly resisted; the development of public housing was neglected, despite the high levels of slum dwellings registered in the State³. The goals of cutting costs and slimming down public administration were pursued with a dogged and ruthless efficiency, becoming an over-arching focus which would permeate and shape all aspects of governmental administration⁴.

Prison policy during these difficult years was dominated by these financial concerns, along with a keenly felt threat from those opposed to the settlement agreed with Great Britain, which established Irish independence, who wished to overthrow the fledgling State. Irish prisons were used as part of a defensive strategy, with detention extensively employed during the Civil War period. Once that threat had receded, prison

1. McCashin, A. (2004) *Social security in Ireland*. Dublin: Gill & Macmillan; Fanning, R. (1978) *The Irish Department of Finance, 1922-58*. Dublin: Institute of Public Administration; Ferriter, D. (2004) *The transformation of Ireland, 1900-2000*. London: Profile.
2. Ó Gráda, C. (1994) *Ireland: a new economic history, 1780-1939*. Oxford: Clarendon Press; Ó Gráda, C. (1997) *A rocky road: the Irish economy since the 1920s*. Manchester New York: Manchester University Press; Breen, R. (1990) *Understanding contemporary Ireland: state, class and development in the Irish Republic*. Basingstoke: Macmillan.
3. Lee, J. (1989) *Ireland, 1912-1985: politics and society*. Cambridge: Cambridge University Press; Ferriter (2004) see n.1; Cousins, M. (2003) *The birth of social welfare in Ireland, 1922-52*. Dublin: Four Courts.
4. O'Halpin, E. (2010) Politics and the State 1922-32. In *A new history of Ireland. VII, Ireland, 1921-84*, edited by J. R. Hill. Oxford: Oxford University Press.

policy makers largely forgot about the prison system and showed themselves to be extremely loath to innovate. There was no rush by the new Government to put a distinctively Irish stamp on its prison policy. No significant changes to regimes occurred from the 1920s until well into the 1940s, prisons were closed because of falling numbers and, in order to save money, the General Prisons Board, the agency in charge of the prison system, was disbanded in a wave of public service cutbacks. Prison policy was largely moribund and inert. Those within the Department responsible for it were, moreover, acting in a climate of great reluctance to public expenditure, which had a significant 'chilling effect' on the propagation of new ideas about how to run prisons⁵.

The effect of the severe economic situation of this period on the prisons was seen largely in the absence of action by policy-makers. Prisons were closed down, but for administrative reasons rather than any broader penal philosophy; the concept of alternatives to custody was not well-developed amongst those responsible for the criminal justice system. With little money to spend, penal regimes were allowed to stagnate, seeing little change from one decade to the next.

The 1980s

The State was rarely in rude financial health during the following decades, but an especially difficult period occurred during the 1980s. Doing nothing about prisons was an option for the State in the 1920s as the prison population was decreasing. Following almost two decades of increases in the prison population, this course of action was no longer feasible in the 1980s. This decade, one of the bleakest periods in the history of Irish prisons, saw unprecedented levels of overcrowding, a system unable to cope with an influx of drugs and those addicted to drugs, poor industrial relations, and a high level of deaths in custody⁶. It was also a time of political turbulence, involving three General Elections in the space of 18 months. The State was, furthermore, in a deep economic crisis which followed, and was exacerbated by, a short period of growth, which was itself based on increasing public borrowing and growing budget deficits in the 1970s⁷. Cuts were made to the health and other

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budgets, with hospitals being closed⁸ and spending on public health was below the European average. During this period Ireland suffered mass emigration, had tax rates of the order of 60 per cent, devalued its currency (the punt) in 1986, and unemployment rates were very high⁹.

Within the prisons, the most pressing crisis was one of space. The numbers of prisoners had increased steadily since the late 1960s. By the early 1980s Irish prisons were under severe strain. Prison building was mooted as the ultimate panacea to the problems this occasioned, but without any financial backing for these plans, policy-makers took a very short-termist crisis management approach to penal administration. One of the mechanisms used to relieve pressure was temporary release. Such release, for the majority unsupervised and without prior planning or indeed notice, began to be relied on more heavily as the decade progressed. In 1980, 891 prisoners were released to make way for new committals, with the figure rising to 1,298 in 1982¹⁰. Another approach was to utilise the intriguingly named 'home leave' system in 1983. This was framed as an alternative to unsupervised temporary release known as shedding, but, in reality, it involved prisoners serving sentences for minor offences being able to remain out of prison once they signed on periodically at a local Garda (police) station.

One move to increase prison capacity received little attention when compared to the impact which it would have on the prison system. In 1983, the then Minister for Justice signed a statutory instrument which removed the provision in the Prison Rules 1947 requiring prisoners to be kept in single cells. This move increased the available capacity significantly. It had a number of effects; first the prisons appeared to be less overcrowded on paper than they were in reality. More serious, however, was the effect on prison life as well as the increasing resort to multiple occupancy cells as a permanent response to pressures on space, something which has never been reversed.

It was admitted by the then Minister for Justice in 1987 that prisoners were occupying bedding on the floor of Mountjoy Prison in Dublin as well as in the TV Room

5. Rogan, M. (2008) *The Prison Rules 1947: Political Imprisonment, Politics and Legislative Change in Ireland*. *The Irish Jurist* 43:89-109; Rogan, M. (2011) *Prison Policy in Ireland: Politics, Penal-welfarism and political imprisonment* London: Routledge.
6. Rogan (2011) see n.5.
7. Lee (1989) see n.3; Keogh, D. (2005) *Twentieth Century Ireland: Revolution and State Building*. Dublin: Gill and MacMillan.
8. 'Hearn, D. (2003) *Macroeconomic Policy in the Celtic Tiger: A Critical Assessment In The End of History? Critical Reflections on the Celtic Tiger*, ed by C. a. C. S. Coulter. Manchester: Manchester University Press.
9. Ó Gráda (1997) see n.2.
10. Dáil Debates, vol 339, col 373, February 8 1983.

in B Base and on 'secure areas leading from the landings' there¹¹.

The prison system was required to rely on outdated prison buildings, such as Mountjoy, which opened in 1850 and did not have in-cell sanitation. Indeed, much of the prison continues to be without this facility, though a refurbishment programme is underway at present. Perhaps inevitably, prison building was viewed as the only viable solution to this continuing crisis. In 1985, in response to queries from the opposition about what it was classifying as its 'prison development programme', then Minister Michael Noonan argued that the Government's planned expansion of the prison system had not been cancelled, but merely deferred due to financial constraints. 'There has never, since 1981, been a time when financial constraints were not operating to hold back some significant parts of the developments' he stated in 1985¹².

More immediate measures were also used. The education units at Cork and Arbour Hill were 'relocated' to temporary, prefabricated, accommodation to increase cell capacity¹³. Accommodation or 'quarters' for single prison officers in Portlaoise were also transformed into custodial accommodation. The Minister considered that it could be used to house 'alcoholic' or low risk women prisoners. Evidently little thought was being put into the needs of either group and no research was conducted or referred to upon which such decisions were made. In the event, the accommodation was used, as might have been predicted, to house the burgeoning numbers of adult male offenders. These were simply short-term and stop gap remedies.

Similarly, female prisoners in Limerick were required to relocate to Mountjoy women's prison in order to make way for male prisoners¹⁴. Previously the exercise area for female prisoners in Limerick was reduced in order to provide additional workshops and indoor recreational facilities for male prisoners¹⁵.

Eventually, sufficient financial resources were found for the first ever purpose-built prison developed by an

independent Irish government. This prison, at Wheatfield to the west of Dublin, was initially to be able to house 150 prisoners, but this figure was increased to 320 by the time of opening at the very end of the decade.

The financial pressures on the prison system during these years were a factor in the crises of the 1980s. A lack of money and very real pressures on space resulted in a form of prison policy-making which was chaotic, ad hoc, almost entirely reactive and poorly planned. A lack of money was cited as a reason for the serious overcrowding, but, interestingly, this did not lead to a consensus at official level that the prison population should be brought down; this was despite the publication of reports, including those commissioned by the Government, calling for a reduction in the use of imprisonment¹⁶. Irish prison policy-makers would have

built more prisons during these years, but they were simply not able to afford to do so.

The 'boom years' and prison policy

Ireland experienced a period of unprecedented economic growth from the early 1990s. Though, as it transpired, much of this was built on the ultimately unsustainable property boom, for almost a decade Ireland witnessed improving public finances. Government receipts increased rapidly, as did public spending. Notably, capital spending

increased significantly¹⁷.

In prison policy terms, the 1990s and early 2000s formed a critical period and the policies pursued during these years have cast a long shadow. A time of intense political competition, the mid 1990s saw a politicisation of the debate on crime and prisons which had not been present in Irish public discourse previously. The political heat, combined with the reaction to a series of high profile and tragic crimes including the killings of an investigative journalist and a Detective Garda (police officer) acted as catalysts for a prison policy which was focused almost exclusively on prison spaces¹⁸. In 1994, a

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11. Dáil Debates, vol 373, col 925, June 9 1987.

12. Dáil Debates, vol 359, col 378, June 5 1985.

13. Dáil Debates, vol 359, col 601, June 6 1985.

14. Dáil Debates, vol 370, col 121, December 17 1986.

15. Dáil Debates, vol 339, col 442, February 2 1983.

16. CIPS (1985) *Report of the committee of inquiry into the penal system*. Dublin: Stationery Office.

17. There are many assessments of the current financial crisis, with accounts in various sources increasing almost daily. For an examination by the now Governor of the Central Bank of Ireland see Honohan, P. (2009) *Resolving Ireland's Banking Crisis in Economic and Social Review* 40 (2):207-231. For an excellent and regularly updated selection of information on the current Irish economy see <http://economicspsychologypolicy.blogspot.co.uk/2012/01/readings-on-irish-economy-post-2007.html?m=1> (last visited July 30 2012).

18. O'Donnell, I, and O'Sullivan, E. (2003) *The Politics of Intolerance — Irish Style in British Journal of Criminology* 43 (1):41-62; O'Donnell, I. (2004) *Imprisonment and Penal Policy in Ireland in Howard Journal of Criminal Justice* 43 (3):253-266.

Department of Justice document suggested that the country needed an extra 210 prison spaces, and that a cap should be placed on the prison population. In 1997 a Government paper proposed an extra 840 spaces; the Programme for Government agreed by the parties which assumed power after the 1997 General Election spoke of a plan to create 2,000 prison spaces. Political debate around crime and the prison system revolved around talk of increasing prison spaces and increasing the number of spaces was viewed as a sign of political strength. Reluctance to spend on prison building was used to criticise politicians as being weak on the issue of crime¹⁹.

Crucially, the fiscal limits on the political desire to build prisons present in the 1980s were no longer acting as brakes on action. However, added to this, the cultural memory amongst prison policy makers of times of extreme pressure on prison space, chaos, 'getting by' from day to day and a huge reliance on temporary release must have added to the pressure to increase the size of the Irish penal estate.

The legacy of this period was in bricks and mortar, with a new prison with 515 spaces opened in 2000, a new remand centre opened in 1999 and the enormously delayed new prison for women was opened in the same year. More importantly, however, prison policy became consumed with a discussion of how many prison spaces should be built, not what prison should be for, or how prison policy might relate to other aspects of social policy and the ability of prison to deal with crime and its underlying causes.

Perhaps the swansong of the 'Celtic Tiger' years in Irish prison policy was the plan to build a prison with the potential to hold 2,200 prisoners at Thornton Hall on a green field site in north county Dublin. Mired in controversy regarding the high price paid for the site, the size of the planned build, and the distance from the city centre, this project was driven by the then Minister for Justice, Michael McDowell²⁰. A member of the Progressive Democrats, a party which espoused policies of low taxation and economic liberalism, part of McDowell's rationale in the development of this plan was, perhaps ironically, to reduce the high costs associated with the running of Irish prisons, particularly in terms of staffing. In his view, contemporary penal technologies would reduce the need for prison staff. It is estimated that the cost of the plans for Thornton Hall has been in the region of €45 million.

Thornton Hall has not been built. In 2011, following the election of a new Government, a review group was set up to examine the project and whether a prison should be built on that site. That review group ultimately recommended that a smaller prison be built there, with plans to double up cells from the beginning. It remains unclear as to whether even these scaled down plans will come to fruition.

Current prison policy

Ireland's economic crash has given rise to high levels of unemployment, crushing levels of public debt, cuts in public spending, and poor demand in the domestic economy. The almost bullish approach to prison policy of the 1990s and early 2000s has given way to a much more muted and cautious tone. As well as this change in rhetoric, Ireland has seen a number of concrete policy changes indicating a desire to reduce the prison population. The first indication of this came in the Programme for Government agreed between the Fine Gael and Labour political parties on the formation of a coalition government. That document stated:

We are committed to a sentencing system that provides a safer society at a lower cost to the taxpayer. We will ensure that violent offenders and other serious offenders serve appropriate prison sentences while at the same time switching away from prison sentences and towards less costly non-custodial options for non-violent and less serious offenders. This will result in a reduction in the prison population and alleviate overcrowding²¹.

A review group established to examine the continued feasibility of the Thornton Hall project also recommended an overall reduction in the size of the Irish prison population²².

Shortly after the establishment of the new Government, the Minister for Justice, Alan Shatter T.D. introduced the Criminal Justice (Community Service) (Amendment No. 2) Bill 2011 which aimed to increase the number of community service orders given by the Irish courts. The Act that followed required the courts to consider the use of community service orders for minor offences where the convicted person would have

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19. Rogan (2011) see n.5.

20. Brangan, L. (2009) *Thornton Hall: A Policy Analysis — Uncaring or Unthinking?*, Dublin Institute of Technology, Dublin.

21. Fine Gael and the Labour Party (2011) *Programme for Government*. Dublin.

22. Thornton Hall Review Group (2011) *Report of the Thornton Hall Project Review Group*. Dublin.

otherwise received a sentence of up to 12 months' imprisonment. There had been plans under the previous Government to expand the use of the community service scheme. Interestingly, Minister Shatter had also been centrally involved in the introduction of community service orders for the first time into Irish law at another period of economic crisis, the 1980s.

The press release which accompanied the passing of the Bill into law gave prominence to the financial savings to be derived from the scheme, stating:

The implementation of the provisions of this will deliver benefits on the national, community and individual level. Offenders considered appropriate for community service will be diverted from the prison system while making recompense to the community for the offence committed. The community benefits from the work completed and the financial burden to the State and taxpayer is reduced.²³

Perhaps most remarkably, The National Recovery Plan 2011-2014, which contains the agreement between the Irish Government and the so-called 'troika' which is providing financial assistance to the Irish State, contains detailed commitments to reducing costs across the prison system. These include the diversion of those who default on fines from prison and the increased use of community service²⁴. Under the terms of the 'bailout' for the State, the cost of imprisonment did not escape attention. That plan also envisages the reduction of staff in the Prison Service.

In March 2013 an all-party Parliamentary sub-committee on penal reform recommended a reduction in the prison population, the increase of remission from one quarter to one third for all prisoners, and the

commutation of all prison sentences of six month or less. While this level of reform is not yet Government policy, the fact that these proposals have achieved cross-party support is quite remarkable.

The most recently available figures suggest that the rate of increase in the Irish prison population has slowed down, but that the number of women being sent to prison has increased, with a 12 per cent rise in committals of women to prison from 2010 to 2011. The average daily prison population in 2011 was 4,390. There were 17,318 committals to prison in 2011 which represented an increase of 0.8 per cent on the 2010 total²⁵.

In light of the economic prospects for the State, one might expect the Government to turn to private sector involvement to reduce costs. This does not appear to be immediately on the horizon; however, companies working in the justice sector have started to become more prominent in Ireland. G4S, which already operates a private security business in Ireland, recently sponsored a one day conference on the Justice system at which the senior prison policy-makers were present²⁶.

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Changes in sentencing policy?

While the main impact of recessionary times in Ireland on prison policy has been in efforts to cut costs, one of the most interesting changes taking place in prison matters at present in Ireland is happening in sentencing. The small number of studies on the Irish prison population has shown a picture of educational and socio-economic disadvantage, high levels of homelessness, and a high prevalence of physical and mental illness²⁷. The limited nature of criminal justice data generally in Ireland makes it difficult to examine the precise offences for which people are imprisoned in any given year²⁸, but it is not controversial to suggest that few are sent to prison for so-called 'white collar' crime.

23. available at <http://justice.ie/en/JELR/Pages/PR11000185>

24. Government of Ireland (2011) *National Recovery Plan 2011-2014*. Dublin.

25. Irish Prison Service (2012) *Annual Report on Prisons*. Dublin: Irish Prison Service available at <http://www.irishprisons.ie/images/pdf/annualreport11.pdf>

26. <http://www.eolasmagazine.ie/events/justice2012/programme.php>

27. Seymour, M. and Costello, L. (2005) *A study of the number, profile and progression routes of homeless persons before the court and in custody*. Dublin.; O'Mahony, P. (1997) *Mountjoy prisoners: a sociological and criminological profile*. Dublin: Stationery Office; O'Donnell, I., Hughes, N. and Baumer, E. (2009) *Recidivism in the Republic of Ireland in Criminology & Criminal Justice* 8 (2):123-146; Carmody, P. and McEvoy, M. (1996) *A study of Irish female prisoners*. Dublin: Stationery Office; Kennedy, H., Monks, S., Curtin, K., Wright, B., Linehan, S., Duffy, D., Telijeur, C., and Kelly, A. (2005) *Mental Illness in Irish Prisoners: Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners*. Dublin.

28. Rogan, M. (2012) *Improving criminal justice data and policy in Economic and Social Review*.

However, it may be that this state of affairs is about to change. There are indications that the judiciary is taking a tougher line on financial crime than had been the case previously. Perhaps reflective of the public mood and the feeling that Ireland's economic woes can be traced, at least in part, to reckless behaviour on the part of financial corporations, crimes of a financial nature have attracted comment on the part of the judiciary which indicates a hardening of approach. It must be said, however, that the matters sentenced by the courts to date have not directly concerned the crisis in Irish banking.

The case of *DPP v. Murray*²⁹ concerned an appeal against the severity of a sentence imposed on a man who had been making false social welfare claims. Mr. Murray had been charged with one count of having a false passport and seventy four counts of theft. During the period in question, he had misappropriated sums of almost €249,000 by making claims for jobseeker's allowance, disability allowance and supplementary welfare allowance, using nine different identities, including those of members of his family, without their knowledge. Mr. Murray pleaded guilty to the charges and received a twelve and a half year sentence. At the time of his appeal he was 63.

The fraud was described by the appeal court as 'elaborate and sophisticated'³⁰ and involved the use of several false identity documents, including British driving licences, which had been issued in Thailand, where Mr. Murray was living; he would return to Ireland to make the claims every three months.

Mr. Murray made admissions immediately when questioned by the police and was fully cooperative, also pleading guilty at a fairly early stage. Only €11,151 of the misappropriated monies had, however, been repaid. Mr. Murray also had a previous conviction for social welfare fraud in the United Kingdom, for which he served a sentence remitted to almost 12 months' imprisonment.

In delivering judgment, Finnegan J began by saying:

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*this appeal against the severity of a sentence imposed in respect of social welfare fraud raises an issue of fundamental importance at a time of crisis for the public finances. How should a sentencing court treat offenders who have defrauded the public revenue by either engaging in unlawful tax evasion on the one hand or (as in this case) by making false social welfare claims on the other? Given the importance of such questions for the public weal — not least at a time of financial emergency — it seems appropriate that this Court should now give some general guidance for future cases of this kind given that prosecutions for tax evasion and welfare fraud are likely to be a more common feature of the criminal justice landscape in the years ahead than may have been the case heretofore*³¹.

The court held that a sentence of the gravity imposed by the sentencing judge was usually reserved for serious offences against the person, involving a violation of the integrity of the person, and sometimes a violation of the dwelling. Finnegan J held that though financial crimes are not in the same category as those against the person, they are not victimless, 'quite the contrary: offences of this kind strike at the heart of the principles of equity, equality of treatment and social solidarity on which the entire edifice of the taxation and social security systems lean. This is

especially so at a time of emergency so far as the public finances are concerned'³².

Finnegan J considered that the fiscal emergencies visited upon the State had been met with stoicism by the Irish people, but that the necessary measures to restore order to the public finances required a high level of social solidarity. In the view of the court, widespread tax evasion by the wealthy and well-to-do can imperil social solidarity and even the stability of the state. Social security fraud also impacts heavily on those most indeed, sapping public

29. 2012 IEHC 60.

30. Ibid at 3.

31. Ibid at 1 — 2.

32. Ibid at 7.

confidence in the system and reducing the amounts available for those genuinely reliant on those payments.

Finnegan J went on to say that anybody holding an Irish passport owes fidelity to the nation and loyalty to the State, under the Irish Constitution. At a time of fiscal emergency, this required that social solidarity be respected. Moreover, Finnegan J held that, in the case of offences involving the public purse, deterrence plays an important value in the sentencing process.

Overall, the Court of Criminal Appeal laid down some general principles to guide sentencing judges in future such cases. The court held:

we therefore suggest for the future guidance of sentencing courts that significant and systematic frauds directed upon the public revenue — whether illegal tax evasion on the one hand or social security fraud on the other — should generally meet with an immediate and appreciable custodial sentence, although naturally the sentence to be imposed in any given case must have appropriate regard to the individual circumstances of each accused³³.

In these particular circumstances, the court felt that a twelve and a half year sentence infringed the 'totality principle' whereby the sentences imposed for individual counts is adjusted in light of what is considered appropriate for the offending behaviour and offender as a whole, and reduced the sentence to nine years, with the final year suspended.

More recently, certain sentences handed down in fraud cases have garnered attention. The limits of data on Irish criminal justice mean that it is not possible to test if there have been more convictions or longer sentences for such offences recently in a statistically robust or meaningful way. The Department of Social Protection has stated that, in 2011, 270 cases of possible social welfare fraud were referred to the police for prosecution. Recently, a woman who pleaded guilty to an offence involving the receipt of €229,000 in social welfare payments to which she was not entitled and received a sentence of three years' imprisonment³⁴.

Probably the most high profile case of late involving financial crime to come before the courts was that of Paul Begley. Mr. Begley was the head of the largest fruit and

vegetable producers in the State. He pleaded guilty to an offence involving the evasion of customs duty on garlic imported from China. The offence involved the labelling of garlic, which was subject to an import duty of up to 232 per cent, as apples, which are subject to a rate of 9 per cent. The total amount of garlic involved was worth €1.1 million. Mr. Begley made full admissions and was paying back the amounts involved. He had no previous convictions, was referred to by the sentencing court as 'an asset to the country', was generous to charity, ran a very successful business, and was a 'decent man'. The maximum sentence for a single count was 5 years and/or a fine of up to three times the value of the goods. Notwithstanding this, the Circuit Court imposed a total sentence of 6 years, holding that a significant custodial term was required because such offences are difficult to uncover and severe penalties act as a deterrent³⁵.

On appeal the Court of Criminal Appeal substituted this sentence with one of two years. The Court of Criminal Appeal ruled that the offence was serious and an element of general deterrence was justified. In a coincidence of various strands of contemporary Irish prison policy, Mr Begley is understood to have been released early into a community service-style scheme known as 'Community Return'. This scheme is designed to reduce the prison population by releasing certain non-violent offenders into community projects under the supervision of the Probation Service³⁶.

A different kind of prisoner?

While this small number of cases should not be used to draw too many conclusions, the attitude of the Court of Criminal Appeal in the *Murray* decision does, however, lay down a clear statement that sentencing courts should deal with financial crime in a robust manner, and that custodial sentences are to be given. It may be that, as Ireland sees more financial offences being prosecuted its prisons will be required to deal with first time offenders at a more mature stage of life than is commonplace and without the usual profile of prisoners within our penal system. The effect that will have on prison policy, in terms of conditions and the development of alternatives will be both interesting and revealing of the attitude of the Irish authorities to the questions of what prison is for, and for whom it should be reserved.

33. Ibid at 9.

34. Woman who claimed €230,000 jailed for social welfare fraud, *The Irish Times*, May 24 2012 <http://www.irishtimes.com/newspaper/ireland/2012/0524/1224316609027.html>.

35. Man jailed over garlic tax scam, *The Irish Times*, March 9 2012 <http://www.irishtimes.com/newspaper/breaking/2012/0309/breaking34.html>

36. See: Garlic importer gets two year term, *The Irish Times*, February 15 2013, <http://www.irishtimes.com/news/garlic-importer-gets-two-year-term-1.1253247> and Garlic smuggler released early from prison, *The Irish Times*, March 26 2013 <http://www.irishtimes.com/news/crime-and-law/garlic-smuggler-released-early-from-prison-1.1339440>

Entangled Staff-Inmate Relations

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Where there exists power exercised by the few or only one against the many, privilege is born and proliferates, even against the will of the power itself; but on the other hand it is normal for power to tolerate and encourage it... the more the area of power is restricted, the more it needs external auxiliaries; the Nazism of the final years could not do without them...¹

In my research on prisons in the global South I have drawn inspiration from two interrelated aspects of accounts of the Nazi concentration camps.² The first concerns the means by which those detained at the camps were able to create and maintain professional and interpersonal relationships and carve out meaningful existence³ in even the most hostile and desperate of settings. The second, and main focus of this article, relates to the depth of inmate involvement in prison management and prison routines. At Auschwitz these two themes, of everyday survival and prisoner organisation, came together in the figure of the prisoner functionary. Primo Levi describes how as many as one in ten prisoners participated in running the camp, working among other things, as cleaners, cooks, medical staff, messengers, interpreters, clerks, guards, barrack wardens, labour squad leaders, even camp chiefs and tragically, gas chamber

orderlies. While these prisoners typically managed to extend their lives by just a few months and gained little in return beyond extra food rations and (in the case of the head prisoner functionaries: the *kapos*) cigarettes and relatively easy work, they made up the majority that survived the concentration camps. Levi was ultimately concerned with the exceptionally brutal and totalitarian character of the camps that led so many prisoners to collaborate, and the ambiguous moral position occupied by those that ‘... [today] might be alive in the place of another.’⁴ However, his wider observations relating to the depth of staff reliance on prisoners at Auschwitz are of wider application. Comparable trustie prisoner systems existed and/or exist today across the globe, in countries as politically and culturally distinct as Russia⁵, China,⁶ India,⁷ the USA,⁸ Sierra Leone,⁹ England and Wales¹⁰ and Brazil, my own research

1. Levi, P. (1989/1986) *The Drowned and the Saved*, London: Abacus (p.27).
2. In particular, Frankl, V. (2004/1947) *Man's Search for Meaning*, London: Rider; Levi, P. (1987/1947) *If This is a Man*, London: Abacus.
3. I borrow this expression from Bandyopadhyay, M. (2010) *Everyday Life in a Prison: Confinement, Surveillance, Resistance*, New Delhi: Orient BlackSwan.
4. Levi, P. (1989/1986), p.62 (see n.1). See also Bravo, A. (n.d.) *On the 'Gray Zone'* (unpublished article).
5. In the gulags of the Soviet period 1 in 4 prisoners officially worked as guard, compound or work *pridúrki*. As the Nazi concentration camps, these prisoners constituted most of those that survived — see Applebaum, A. (2003) *Gulag: A History of the Soviet Camps*, London: Allen Lane; Gregory, P. (2008) *Lenin's Brain and Other Tales from the Secret Soviet Archives*, Stanford: Hoover International Press; Shalamov, V. (1994/1980-1981) *Kolyma Tales*, London: Penguin Books; Solzhenitsyn, A. (1963) *One Day in the Life of Ivan Denisovich*, London: Penguin; Solzhenitsyn, A. (1975) *The Gulag Archipelago: Volume 2*, New York: Harper and Row.
6. The administrators of Chinese work camps recruit *laotou yuba* (cell bosses) to maintain discipline and *zuzhang* (work group chiefs) to monitor production; prisoners with particular skills may also be recruited, for instance, as accountants, doctors, scribes or carpenters — see Williams, P. and Wu, Y. (2004) *The Great Wall of Confinement: The Chinese Prison Camp through Contemporary Fiction and Reportage*, Berkeley: University of California Press; Wu, H. (1992) *Laogai: The Chinese Gulag*, Boulder: Westview Press. In the work camps of North Korea prisoners are likewise divided into small work-teams; one inmate is held responsible for the rest of the group — see Hawk, D. (2003) *The Hidden Gulag: Exposing North Korea's Prison Camps*, Washington: U.S. Committee for Human Rights in North Korea. Prisoners are also appointed as foremen in charge of work sites — see Harden, B. (2012) *Escape from Camp 14*, London: Mantle.
7. In India at least ten percent of prisoners formally work as trusties, many as office clerks or *mate pahara* (convict warders). The roles and powers of these prisoners are defined in statute — see Bandyopadhyay, M. (2007) 'Reform and everyday practice: Some issues of prison governance', *Contributions to Indian Sociology*, 41(3): 387-416; Bandyopadhyay (2010) (see n.3); Bandyopadhyay, M. and Jefferson, A. (2010) 'Entangled interactions', paper presented at the *British Society of Criminology Annual Conference*, July 2010. The origins of the Indian convict warder system can be traced back to 19th century British colonial rule — see Arnold, D. (2005) 'India: The prisoners revolt', *IIAS Newsletter*, 39: 6. It was also replicated in neighbouring British colonies, including Burma and the Philippines — see Brown, I. (2007) 'A commissioner calls: Alexander Paterson and Burma's colonial prisons', *Journal of Southeast Asian Studies*, 38, 2: 293-308; Winton, T. and Brown, I. (2005) Colonial Burma's prison: Continuity with its pre-colonial past?', *IIAS Newsletter*, 39: 5; McNair, J. and Baylis, W. (2010/1899) *Prisoners Their own Warders*, Gloucester: Dodo.
8. Until the mid 1980s 10-20% of prisoners in the post-slavery prison farms worked as 'trusties', as in India both as warders and administrators — see Crouch, B. and Marquart, J. (1989) *An Appeal to Justice: Litigation Reform of Texas Prisons*, Austin: University of Texas Press; Marquart, J. and Roebeck, J. (1985) 'Prison guards and 'snitches'', *British Journal of Criminology*, 25(3): 217-233; McWhorter, W. (1981) *Inmate Society: Legs, Half-Pants and Gunmen — A Study of Inmate Guards*, Saragota: Century Twenty One. See also Bisonette, J. (2008) *When the Prisoners Ran Walpole*, Cambridge, Massachusetts: South End Press, an account of an experiment in which prisoners assumed full control of Massachusetts Correctional Institution during a two-month strike by prison officers in 1973.
9. Bandyopadhyay and Jefferson (2010) (see n.7).
10. Prior to the Prisons Act 1835 prisoners were legally employed to work in the place of staff, including as turnkeys. Prisoners are recorded as working as office clerks until the late 1800s — see Thomas, J. (1972) *The English Prison Officer since 1850: A Study in Conflict*, London: Routledge and Kegan Paul.

focus. Equally significant, across the developing world today prison wings operate largely without the presence of officers. In these circumstances, prisoners are required to administer their own regimes. In some prisons, in India for instance, the inmate hierarchies that inevitably arise are formally managed by prison authorities. Here, officers appoint inmate leaders, who exercise power on behalf of the prison administration. In other prisons, for instance the work camps of China and the gang-infiltrated prisons of Russia, South Africa and Latin America, inmate leaders are more likely to be appointed by prisoners and to impose (and themselves be guided by) inmate rather than prison codes.¹¹ Contrary to popular perceptions, in Brazil at least, inmate leaders govern through negotiation as much as coercion, and are as likely to be selected among the oldest or longest serving as toughest or well-connected prisoners. Further, inmate leaders typically run the wings with at least some degree of support from prison staff; nor are they necessarily castigated by other prisoners for doing so.

The primary data presented in this article is taken from an intensive three-week fieldwork study at an overcrowded, under-staffed police jail in Rio de Janeiro that I completed in September 2010 (I will refer to the jail as Polinter).¹² I was introduced to the depth of prisoner involvement in running the jail within half an hour of my first visit six months earlier, when a number of new prisoners arrived and one of eleven recognised inmate leaders was called to oversee their registration and subsequent escort to the cells.¹³ Shortly afterwards I entered the cell block with the director and the head of the sixteen police jails in Rio de Janeiro to meet the same inmate leader to discuss (and effectively seek

permission for) my plans to return to study prisoner organisation. Later my colleagues were amused to discover I had not realised the people that locked the doors behind me were prisoners. The director informed me that on some nights there was only one officer on duty. On these occasions he slept with his mobile phone next to his bed.

The extent to which inmates participate in administering the regimes in which they are incarcerated has a number of consequences for the study of prisons in the post-colonial and transitional world. In my writing on Brazilian prisons to date¹⁴ I have endeavoured to document and categorise the various formal and informal roles played by prisoners at Polinter and other Brazilian prisons in providing for security, discipline and welfare, from sweeping cells and washing clothes, to raising money to purchase material goods and pay bus fares for released prisoners, maintaining and enforcing norms concerning conduct, dispute resolution and dealings with prison staff, and working as turnkeys. I have demonstrated that, as in other countries in the developing world, prisoner participation can be divided into two broad categories of activity: self-governance (in which prisoners organise themselves, often with the implicit approval of staff, and may gain unofficial benefits such as additional unlock and access to the prison administration and welfare services) and collaboration (in which, as in the case of Auschwitz, inmates are formally entrusted to run prisons alongside or in place of staff, and in some cases gain additional official benefits such as pay and early release). I have also explored the context in which inmates collaborate and self-govern, principally state abandonment (low staffing levels and material deprivation) and the realities of everyday prison life (for instance, eating, washing, sleeping, receiving visits,

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11. Again, this is a phenomenon with historical roots. The roots of prisoner participation in Russian prisons can be located within the broader national tradition of the worker or community *artel* (guild or cooperative), and traced back to the 19th Century — see e.g. Dostoevsky, F. (1956/1861-1862) *Memoirs from the House of the Dead*, Oxford: Oxford University Press. In the barracks of the Soviet gulags prisoner discipline and welfare was maintained by high-ranking members of organised criminal *artels* known as *vory v zakonye* (thieves-in-law) — see also Gilinskiy, Y. and Kostjukovsky, Y. (2004) 'From thievish artel to criminal corporation: The history of organised crime in Russia', in Fijnaut, C. and Letizia, P. (eds.) *Organised Crime in Europe: Concepts, Patterns and Control Policies in the European Union and Beyond*, Dordrecht: Springer. For contemporary examples, see inter alia: on Bolivia, Skarbek, D. (2010) 'Self-governance in San Pedro prison', *Independent Review*, 14(2): 569-585; on Peru, Pérez Guadalupe, J. L. (1994) *Faites y Atorantes, una Etnografía Del Penal De Lurigancho*, Lima: Centro de Investigaciones Teológicas; on Venezuela, Carroll, R. (2011) 'Drugs, murder and redemption: The gangs of Caracas', *Guardian*, 10 March, and Romero, S. (2011) 'Where prisoners can do anything, except leave', *New York Times*, 3 June; on Honduras, Jefferson, A. (2010) 'Prison spaces in Nigeria and Honduras', *Prison Service Journal*, 187: 34-39; and on South Africa, Geer, S. and Lindegaard, M. (under review) 'Surviving South African prisons', and Steinberg, J. (2004) *The Number: One Man's Search for Identity in the Cape Underworld and Prison Gangs*, Cape Town: Jonathan Ball. For an account of the roles played by *vory v zakonye* in Russian prisons today, see Lambert, A. (2001) (director) *The Mark of Cain* (documentary).
 12. The nine cells at the jail measured between 18m² and 36m², yet held an average of 43 prisoners. Besides their salaries and the delivery of prisoners' meals, the five officers that worked at the jail received no material support from prison or police authorities.
 13. Officially there was one inmate leader for each of the nine cells and one senior inmate leader for each of the two wings. I had a comparable experience at Penitenciária Alfredo Trajan, a high security prison, also in Rio de Janeiro, which I visited with a public defender a few days earlier. The chief inmate leader was present for much of the three hours we spent advising prisoners. As we were leaving, he was waiting by the entrance to the main prison wing for the arrival of new prisoners. His role here was to decide which prisoners to allow in, that is which prisoners were willing to accept the authority of the wing's inmate hierarchy, and which needed to go onto the security wing to await transfer to another prison.
 14. In English, Darke, S. (2012) 'Estação Carandiru', *Prison Service Journal*, 199: 26-28; Darke, S. (forthcoming) 'Inmate Governance in Brazilian Prisons', *Howard Journal of Criminal Justice*; Darke, S. (under review) 'Managing without guards in a Brazilian police lockup'.

working, resolving conflicts, socialising and maintaining friendships). Finally, I have investigated prisoner collaboration and self-governance in terms of mutual dependence, accommodation and cooperation. Over the remaining pages I return to my case study of Polinter in order to analyse the consequences of inmate participation for our understanding of everyday authority in the guard-less prisons of the global South. In doing so I focus on two blurred prison boundaries: between freedom and incapacitation and, first, between confiners and the confined.

'How did you end up here?'

Of course, prisoners also continue to perform certain janitorial and administrative duties in the post-industrial world. In some countries, most notably the USA, inmate hierarchies likewise continue to exist on the wings. Nevertheless, here inmate collaboration and self-governance remain exceptional, not defining features. Though useful, prison staff do not depend on inmates to run their regimes. As the North American and European sociology of prisons literature makes clear, the worlds of prisoners and staff remain largely distinct in the global North, and the ability of inmates to shape their experiences of prison is dependent upon the compromise or corruption of individual officers, which are as easily corrected or withdrawn as they

are gained. With rare exception, prison administrations remain in control of the most important aspects of prison life, from security and discipline to everyday routines such as lockup, visits and mealtimes.¹⁵

In contrast, many if not the majority of prisons in the South would quite simply not be able to operate without the support of prisoners. To expand for a moment on some of the roles played by prisoners in administering Polinter, the police not only relied on inmates to perform janitorial tasks like cleaning, cooking and distributing meals, but also to provide for basic prisoner needs such as medicines, cooking utensils, toiletries, bedding and clothing (fortunately, a

number of voluntary sector groups also frequented the jail to provide, among other things, medical check-ups and pro-bono legal advice). As for discipline and security, prisoners were responsible for handcuffing and escorting, searching cells and food parcels for contraband, eavesdropping for plans to rebel or escape, and (in the case of inmate leaders) ensuring that inmates remained in their cells outside visiting hours and allocated periods of free association, did not argue, swear or raise their voices, were silent from midnight, and did not impede officers or trusties. Indeed, there were no clear divisions between the roles of prisoners

and staff. In effect, there were three kinds of guard (prison officer guards, trustie prisoner guards and inmate leader guards) and three kinds of support staff (voluntary sector support staff, trustie support staff and inmate leader managed support staff).

Particularly important for current purposes was the depth of autonomy enjoyed by higher ranking trusties and inmate leaders. Trusties were organised into work teams, the most security-orientated of which were led by prisoners the director had brought with him when he arrived from another of Rio de Janeiro's police jails six months earlier. New trusties were closely supervised by team leaders, who were in turn monitored by the two most senior trusties at the jail, both long-term prisoners who reported only to the director. The police interfered little with the work of trusties, who

outnumbered them ten to one. Nor did they leave their posts during work hours, in the office in the case of the deputy director, and at the front gate in the case of the two officers that worked as *plantonistas* (caretakers; guards) and a female officer that searched the majority of visitors. The director spent his days sitting in the courtyard in front of the entrance to the cell block, from where he had the best oversight of the most risky procedure, the movement of prisoners to and from the wings. However, he seldom entered the cell block itself and rarely spoke to junior trusties or team leaders, choosing instead to communicate through his two head trusties. Consequently, little trustie security work

With rare exception, prison administrations remain in control of the most important aspects of prison life, from security and discipline to everyday routines such as lockup, visits and mealtimes.

15. For a possible exception, see recent reports on prison officers depending on inmate leader to maintain discipline on the wings of the juvenile unit in the Riker's Island prison complex, New York — e.g. *The Guardian*, 16 May 2012; *New York Magazine*, 30 January 2011; *New York Times*, 4 February 2009; *New York Village Voice*, 9 May 2012.

was supervised by the police, including end-of-visit strip-searches and the end-of-day *confere* (involving head-count, cell-check and lockup). When the director was not present, the head trustees were effectively left in overall charge of security at the jail. Both carried keys to the cell block and back gate (used as a tradesmen entrance and as an exit for visitors), and carried mobile phones to speak to the director and arrange deliveries to the jail. Other prisoners referred to the director and his head trustees as the jail's *administração* (administration). Among the numerous examples of the power exercised by these two prisoners that I witnessed, one event stands out. Shortly after I arrived for my last day of research, a junior trustee tried to escape when taking rubbish bins through the back gate. One of the head trustees took him into the office, where I was sitting, and assaulted him in front of the deputy director, before proceeding to handcuff him and put him in a van for immediate transfer. In the confusion, one of the police escorts forgot his rifle. As the van was leaving, the second head trustee rushed to the arms cabinet, loaded the rifle and passed it to the officer through the window.

Inmate leaders worked with even less impediment. The director explained that so long as the wing remained quiet and no-one was seriously hurt, what happened on the wings was 'their business'. Neither did the police communicate with common prisoners. Inmate leaders described themselves as prisoner *representantes* (representatives) and their role as intermediaries between prisoners and the police as working on the *ligação* (link). However, even this aspect of their work involved little direct contact with the police. Most of the time they liaised with junior trustees over relatively mundane matters like calling prisoners with visitors, the delivery of prison meals and packages from families, and the purchase of material goods. For more serious matters such as indiscipline and changes to prison routines, they liaised with the head trustees. In the three weeks that I researched there, I only saw the police enter the cell block on two occasions. The first was to take me on my first detailed tour of the two (gang and segregation) wings (on the other occasions that I entered the wings, I was accompanied by one of the head trustees). The

second occurred when a common prisoner assaulted a trustee, and the director entered with his head trustees to speak with the relevant wing representative. The two sides agreed that the culprit was out of control and needed to be moved on.

There was, then, little to distinguish trustees and inmate leaders from prison officers, not only in terms of function, but also of command. Indeed, one of the most difficult tasks at the beginning of the study was to establish which of the people working there were prisoners and which were police. Once I had understood that the wings were self-governing and those that stood on the two sides of the double-gated *gaiolas* (cages) that led onto the wings were all prisoners, I had little problem distinguishing inmate leaders from officers and trustees. It took longer to realise that all of the support staff, including the paramedic, the handyman, the receptionists and office

clerks were prisoners.¹⁶ Besides having to come to terms with the crossovers in officer-trustee functions, this task was complicated further by the fact that many trustees, including the head trustees and most team leaders, were former police officers.¹⁷ By the end of my research, I was fully accustomed to the fact that the institution was run by its inmates. I also found myself being slowly drawn into prison routines. Mostly this involved directing visitors, most of who assumed I was working

there. On one occasion, when the jail was temporarily under the charge of just one officer, I was asked to help out at the front gate. On my last day, the director joked that if I got into trouble with the law, he would have a job for me. On another occasion, a lawyer to whom I had already spoken a number of times asked me how I had ended up in a Brazilian prison.

'The only difference between us is that I sleep at home'

The last points that remain to be explored concerning the nature of authority at Polinter relate to the boundary between freedom and incapacitation. In this case, the challenge to staff authority emerged from varieties in prisoner confinement, and from the poverty of prison work.

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16. Bandyopadhyay (2010) and Bandyopadhyay and Jefferson (2010) describe analogous experiences in their research on prisons in India and Sierra Leone (see n.3 and n.7).

17. Here, comparison can be made with the compound *pridúrki* of the Soviet gulags, many of the most senior of which were likewise former police — Solzhenitsyn (1975) (see n.5). More generally, up to half of all trustees either started out as prison officers and/or were employed as prison officers at the end of their sentences — Applebaum (2003) (see n.5).

All of the 464 prisoners that were being held at the time of my research were confined in the sense that they could not go beyond the boundaries of the jail. Likewise, all prisoners faced severe overcrowding at the jail, which measured just 1,200m². The point is not that conditions were bad for everyone, but that there was significant variation in the conditions experienced by individual prisoners. This was less so on the wings, where the only benefit gained by inmate leaders was to leave the cells between 7am to 7pm to work in the cell block corridors and visiting rooms. The experience of confinement on and off the wings, on the other hand, varied enormously. All prisoners held off the wings (of which around 45 worked as trusties but a further 25 or 30 prisoners, mostly university educated or former criminal justice practitioners, were kept off the wings for their convenience and safety) dressed in their own clothes, ate better than other prisoners, and slept in more comfort, usually on their own beds or mattresses and often in air-conditioned rooms. The majority were still required to share four to six bed dormitories, but some had their own rooms. A number of trusties slept where they worked, for example in the kitchen, the lawyers' visiting room and the medical room. The most junior trusties, the cleaners and porters, slept in the visiting rooms and the corridors of the cell blocks. Of particular significance, prisoners held off the wings had acquired certain freedoms to move around within the jail, and to chat informally with officers. This was most noticeable at the end of the working day and at the weekend, when trusties and other privileged prisoners would relax and engage in banter with the police in the courtyard. It was also noticeable at meal-times, when lower ranking trusties would collect their food and return to their posts to eat, but prisoners at the top of the hierarchy would eat alongside the police, in the courtyard or kitchen. The head trusties and one other privileged prisoner, also a former police officer, ate in the director's room. Trusties as a whole distinguished themselves from other prisoners through terms like *presos na tranca* (locked up prisoners), *presos de confiança* (trusted prisoners) and working or being held *dentro* (inside) and *fora* (outside).

He likened his situation to having served a long-term sentence in semi-open conditions. The only difference between us, he enjoyed saying to trusties working in the office, was that he slept at home.

Equally intriguing were the varying conditions of officer as well as inmate work. Where trustie and inmate leader experiences of prison were defined by relative freedom, officer experiences of prison were defined by relative confinement. As previously noted, with the exception of the director the police effectively had no more, in some cases less freedom of movement than a number of senior trusties and other privileged prisoners. They also spent an extraordinary number of hours at the jail. While the officer that searched visitors worked only Monday to Friday, from 8.30am to 6.30pm, the *plantonistas* worked 12 hours a day, often seven days a week. The director and deputy director worked equally hard, in order to maintain a minimum presence of two officers in the evening and at the weekend. The heaviest burden appeared to fall on the deputy director, who claimed to have had only a few weeks off in over fifteen years. He likened his situation to having served a long-term sentence in semi-open conditions. The only difference between us, he enjoyed saying to trusties working in the office, was that he slept at home.

Important for current purposes is that the relative lack of privilege experienced by officers led to further erosion of everyday police power. What was most striking about the deputy director's analogy was not so much the solidarity that he felt towards the prisoners he worked with, but their mutual experience of being constrained to the office. From this position, he had little opportunity to influence what went on at the jail. Nor did he have the necessary knowledge to do so. For instance, he had little contact with inmate leaders, and only a basic understanding of their organisation and roles. He was not even aware that segregated prisoners (who, ironically, made up 50 per cent of prisoners) had a wing representative. He also depended on senior trusties to make important administrative decisions for him, for instance which dormitories to allocate new prisoners, and which prisoners to transfer when spaces became available in state penitentiaries.

Prison authority

The more 'prominent' prisoners, the Capos, the cooks, the store-keepers and the camp policemen, did not, as a rule feel degraded at

all, like the majority of other prisoners... but on the contrary—promoted!¹⁸

When they got together on their porch for a friendly smoke and a chat about camp affairs, it was hard to picture just who among them might be different.¹⁹

When you get such good treatment from officers, you tend to forget you are a prisoner.²⁰

The more I research prisons, the more I question the value of the Northern sociology of prisons literature in exploring what it is like to work or be incarcerated in the impoverished prisons of the South. Through the example of Polinter, I have sought to tease out some of the ways in which, at least in Brazil, prison is a shared experience, between prisoners and, my focus here, between prisoners and staff. More specifically, I have explored the ways in which the communal nature of Brazilian prison life persists both despite and as a result of material deprivation and staff shortage. By way of conclusion, the first point that needs emphasising is that Polinter was among the most materially deprived of Brazilian prisons. Neither was the acute shortage of staff that I found there exceptional. Across the Brazilian prison system it is not uncommon to find one officer on duty per 200, even 300 prisoners;²¹ prison officers make up 75 per cent of total prison staff.²²

In the introduction I noted that one of the consequences of prisoner participation *vis-à-vis* staff shortage and material deprivation at Polinter was that prisoners and officers pulled together to maintain basic levels of security, discipline and welfare. This, of course, stands against the mainstream of existing prison conditions literature, which tends to depict Brazilian prisons as institutions of disorder, violence, exploitation and despair, in which inmate trustees invariably act as

extensions of prison officer abuse of power, and inmate leaders head tyrannical gangs.²³ This Hobbesian picture of Brazilian prison life, I suggest, is not only exaggerated, but is largely premised in an unquestioned extension of established Northern sociology of prisons: notably that inmates and officers stand in 'normative opposition'²⁴ to one another and rarely develop positive relationships;²⁵ and that inmate solidarity has broken down as prison regimes have become harder and prison populations larger, less heterogeneous, made up of more remand and first-time offenders, and awash with hard drugs and (particularly in the US) gang culture.²⁶ To the contrary, it is arguably the case that solidarity between and among Brazilian prison staff and inmates has increased over the past twenty years, at the same time as the prison population has almost quadrupled (to 514,582 in December 2011), the percentage of prisoners held in pre-trial detention has risen (to 42 per cent, or 217,146 prisoners), and prison gang culture has spread from a handful of prisons in Rio de Janeiro to half of prisons in the country.²⁷ Contra David Sharbeck,²⁸ for instance, my research at Polinter and on Brazilian prisons more generally leads me to the conclusion that even large, overcrowded, self-ordering prison communities do not necessarily become predatory. This is a conclusion that is supported by other recent prison fieldwork studies in Brazil,²⁹ and other parts of the global South.³⁰ Bad conditions, as Bandyopadhyay puts it, give rise to social bonds as well as tensions.³¹

In this article I have focused on a second major aspect of staff shortage, prisoner participation and prisoner/prisoner-officer relations at the jail: the lack of clarity over what it meant to be an inmate or a member of staff. We have seen that through their joint experiences of running the jail, the daily lives of those that worked or were incarcerated at Polinter were entangled to the extent that it was not always clear or, in terms of prison authority, even necessary to know

18. Frankl, V. (2004/1947), p.72 (see n.2.).

19. Solzhenitsyn (1975), p.262 (see n.5).

20. Prisoner quoted in Bandyopadhyay (2010), p.81 (see n.3).

21. Salla, F. (2006) 'As rebeliões nas prisões: Novos significados a partir da experiência Brasileira', *Sociologias*, 8: 274-307.

22. Salla, F. et al. (2009) *Democracy, Human Rights and Prison Conditions in South America*, São Paulo: Universidade de São Paulo.

23. See, *inter alia*, *The Economist* (2012, 22 September) *Prisons in Latin America: A Journey to Hell*; Human Rights Watch (1998) *Behind Bars in Brazil*, New York: Human Rights Watch; UN (2012) *Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Brazil* (unpublished document); Wacquant, L. (2003) 'Towards a dictatorship over the poor: Notes on the penalization of poverty in Brazil', *Punishment and Society*, 5: 197-205.

24. Crewe, B. (2009) *The Prisoner Society: Power, Adaptation and Social Life in an English Prison*, Oxford: Oxford University Press.

25. Clemmer, D. (1958/1940) *The Prison Community*, New York: Holt, Rinehart and Winston.

26. For recent analysis, see e.g. Crewe, B. (2009) (see n.23); Drake, D. (2012) *Prisons, Punishment and the Pursuit of Security*, Basingstoke: Palgrave Macmillan; Sharbek, D. (2012) 'Prison gangs, norms, and organizations', *Journal of Economic Behaviour and Organization*, 82: 96-109.

27. For more detailed analysis of prison conditions, staff-inmate accommodation and solidarity, and the rise of gang culture in Brazilian prisons, see Darke (forthcoming) (see n.14).

28. Sharbek (2012) (see n.26).

29. Again, see Darke (forthcoming) (see n.14).

30. E.g. Bandyopadhyay (2010) (see n.3); Geer and Lindegaard (under review) (see n.8).

31. Bandyopadhyay (2010) (see n.3).

who was a prisoner and who was an officer. Trustees and inmate leaders acted and were treated as staff, and staff experienced some of the same constraints as inmates. We have seen further that, like the compound *pridúrki* of the Soviet gulags and the *kapos* of the Nazi concentration camps, trustees inevitably interacted with officers on a social as well as professional level. Under these circumstances, the question who was guarded and who did the guarding was not a straightforward one. Neither was the question who was free and who had lost their liberty. Authority at the jail was not undermined by the lack of state resources but rather determined by a fusion of staff-inmate functions and a complexity of staff-inmate privileges. Again, these conclusions resonate little with contemporary prison studies in the North, which take as their starting point that prisons are (or at least strive to be) bureaucratic institutions in which power is imposed or negotiated from the top-down.³² Here, inmate authority is regarded as arising from defects in what are otherwise

institutions of total power, defects that arise through inevitabilities of friendship, reciprocity and inmate involvement in prison regimes,³³ but defects all the same. More specifically, to cite Bandyopadhyay once more, '... deficiencies in the exercise of total power are to be located in the 'interactional space' that binds prisoners and staff [...] [interwoven] relationships, strategies to maintain these relations, communication networks, rules of engagement...' ³⁴ In this article I have sought to demonstrate that in contrast to the relatively well-resourced prisons of the North, staff-inmate interaction (and the friendships, reciprocal exchanges and inmate participation from which it emerges) is not an aberration, but rather an integral feature of prison life in the South. With Martin, Jefferson and Bandyopadhyay, I would argue that 'situational adjustments'³⁵ to material deprivation and staff shortage, not structural dispositions of power or ostensible human rights, are key to understanding prison governance in the post-colonial world.



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32. See e.g. Sparks, R. et al. (1996) *Prisons and the Problem of Order*, Oxford: Oxford University Press, who describe prison power as 'imposed and enforced... neither spontaneous nor consensual' (p.300).

33. Sykes, G. (1958) *The Society of Captives*, Princeton, NJ: Princeton University Press.

34. Bandyopadhyay (2000, p.176 and 178) (see n.7).

35. Moore, S. (2000) *Law as Process: An Anthropological Approach*, Oxford: James Currey, cited in Martin, T. et al. (under review) 'Sensing prison climates: Governance, survival and transition'.

The role of family in the lives of incarcerated women

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Introduction

In recent years, the growth of female incarceration in the United States has outpaced that of male prisoners. Yet, many important issues regarding imprisoned women's experiences and the impact of their relationships on imprisonment remain understudied. This article explores the role of family and children in the lives of incarcerated women with a special focus on my own research—both a qualitative analysis of interviews with incarcerated mothers and a quantitative analysis of national prisoner survey data. This research centers respectively on the strategies that incarcerated women employ to cope with separation from their children and how contact with families impact women's prison adjustment. Incarcerated women and mothers throughout the world face similar experiences and challenges, so its broad insights regarding family involvement and its consequences for prison life should apply outside of the American context.

Incarcerated women and mothers

In 2011, there were nearly 1.6 million prisoners in state and federal institutions in the USA. Although the prison population remains largely male (93 per cent), the female inmate population grew over nine-fold from 12,279 in 1975 to 111,387 in 2011¹. According to many scholars, this dramatic increase was largely due to punitive criminal justice policies such as mandatory sentencing for drug offences.

Statistics show that the typical female prisoner is demographically similar to the typical male prisoner. She is from a lower-socio-economic class, a single parent, and a racial or ethnic minority. However, female

and male prisoners are disparate in a few key respects. First, only female inmates tend to face a 'Triple threat' of drug and alcohol abuse, childhood and adulthood sexual and physical victimization, and mental health problems. Most women in prison are incarcerated for drug-related offences and sexual victimization is found to be a common gendered pathway to drug use and criminal behavior².

Another distinguishing characteristic of female prisoners is the fact that most of them are mothers, and they were the primary caregivers before their imprisonment³. In fact, much of the research on women in prison emphasizes the central role of motherhood. Research indicates that mothers view separation from their children as the most difficult aspect of imprisonment. Imprisonment challenges women's ability to sustain their relationships with their children. Enos⁴ conducted 25 in-depth interviews with incarcerated women and she found that imprisoned mothers tend to present themselves as 'good mothers' and they seek to maintain relationships with their children while in prison.

During my research project on incarcerated women I found that the literature on relationships between imprisoned mothers and their children focuses nearly exclusively on the extent and nature of their contacts during imprisonment. A common assumption among many scholars is that children's visits help in maintaining a bond between mothers and their children, thus lessening the strains of separation and isolation from the outside world. However, researchers and practitioners also point out that most female inmates are never visited by their children. The women who are visited tend to endure short, yet highly regulated visits. Among the reasons for non-visitation are the remote location of women's prisons (there is often only one female prison in a state), lack of transportation due to financial limitations of families of

1. Statistical data came from Carson, E.A., and Sabol, W.J. (2012). *Prisoners in 2011*. Bureau of Justice Statistics, U.S. Department of Justice and Hill, G., and Harrison, P. (2008). *Female prisoners under State or Federal jurisdiction*. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.
2. The typical female prisoner is described by many researchers. See for example Glaze, L.E., and Maruschak, L.M. (2009). *Parents in prison and their minor children*. Bureau of Justice Statistics, U.S. Department of Justice; Gido, R.L., and Dalley, L. (2009). *Women's mental health issues across the criminal justice system*. Upper Side River, New Jersey: Pearson Prentice Hall and Dalley, L. P. (2002). Policy implications relating to inmate mothers and their children: Will the past be prologue? *The Prison Journal*, 82, 2, 234-268.
3. In contrast to incarcerated fathers, incarcerated mothers are primary caregivers of their children before incarceration. See Mumola, C. J. (2000). *Incarcerated parents and their children*. Bureau of Justice Statistics. Special Report. Washington, DC. Department of Justice and Glaze, L.E., and Maruschak, L.M. (2009). *Parents in prison and their minor children*. Bureau of Justice Statistics, U.S. Department of Justice.
4. Enos, S. (2001). *Mothering from the inside. Parenting in a women's Prison*. New York: State University of New York Press.

incarcerated women, restrictive prison rules (early hours and selected days for visitations), child-unfriendly visiting areas, and mothers' and/or their families' concerns about exposing children to harsh conditions of imprisonment. Although some of these factors detract from the quality of family interactions, researchers and prison officials tend to agree that visits, phone calls and mail between inmate mothers and their families, help sustain parent-child bonds and improve mothers' adjustment to the prison environment⁵.

How incarcerated mothers cope with separation from their children

My research, published in *The Prison Journal*⁶, was based on a qualitative analysis of semi-structured interviews conducted by professor Siegel with 74 mothers (17 incarcerated, 20 jailed and 37 awaiting sentencing in community). We found that separation from children and families due to imprisonment is a very stressful event and that female inmates have developed specific coping techniques. The typology of coping techniques most prevalent in the literature is the binary categorization of emotion- focused and problem-focused coping⁷. Emotion-focused coping decreases stress via cognitive-emotional responses, whereas problem-focused coping involves actively managing the problem and choosing action-based solutions.

However, a binary typology does not adequately capture the rich variation in coping strategies developed by incarcerated women. From the interview data, we derived a typology comprised of seven techniques that incarcerated mothers employed to cope with maternal separation: Mothering from Prison, Being a Good Mother, Role Redefinition, Disassociation from Prisoner Identity, Self-Transformation, Planning and Preparation, and Self-Blame. We identified four emotion-focused, one problem-focused and two mixed coping techniques. First and foremost, 'Being a Good Mother,'

an emotion-focused coping strategy, was present to varying degrees among all sampled incarcerated mothers. Incarcerated mothers often presented their pre-prison relationships with their children as challenging but positive overall. They talked about intimate knowledge that they have of their children and how no one else can replace them in their mothering role. One method of maintaining an image of themselves as good mothers while incarcerated was an emotion-focused coping technique that we called 'Disassociation from Prisoner Identity.' Many mothers claimed that they did not belong in prison and made downward social comparisons to the many unfit mothers they had observed in prison. Another way of preserving the 'Good Mother' image was by practicing 'Mothering from Prison.'

It is a problem-focused coping that entails active mothering via visits, phone calls and mail. In keeping with national statistics, most interviewed women were not visited by their families. Thus, the main ways of communication were phone calls and mail. However, the phone calls were expensive (paid by the outside recipient) and mail was infrequent. Overall, 'Mothering from Prison' was a very difficult and burdensome undertaking for incarcerated mothers and for their families. We also found that women with a shorter stay in prison appeared to be more likely to employ 'Being a Good Mother' and 'Mothering from Prison.' A plausible explanation is that

We found that separation from children and families due to imprisonment is a very stressful event and that female inmates have developed specific coping techniques.

separation from families was more recent. Accordingly, these mothers were more likely to be in contact with their children via visits and to make decisions about their children's future. They either actually were or self-servingly believed that they were more involved in raising their children.

We also found that some mothers employed 'Role Redefinition' as an emotion-focused coping technique. This technique involves a reversal of the roles of mothers and children. Children start acting like friends and confidantes while mothers become dependent emotionally on their children. Some mothers employed

5. Some of the literature on maintaining contact with families: Mumola, C. J. (2000). *Incarcerated parents and their children*. Bureau of Justice Statistics. Special Report. Washington, DC. Department of Justice; Casey-Acevedo, K., and Bakken, T. (2002). Visiting women in prison: Who visits and who cares? *Journal of Offender Rehabilitation*, 34, 3, 67-83; Berry, P. E., and Eigenberg, H. M. (2003). Role strain and incarcerated mothers: Understanding the process of mothering. *Women and Criminal Justice*, 15, 1, 101-119; and Bloom, B.E., and Steinhart, D. (1993). *Why punish the children? A reappraisal of the children of incarcerated mothers in America*. San Francisco: National Council on Crime and Delinquency.
6. Celinska, K. and Siegel, J. A. (2010). Mothers in trouble: Coping with actual or pending separation from children due to incarceration. *The Prison Journal*, 90, 4, 447-474.
7. Lazarus, R. S., and Folkman, S. (1984). *Stress, appraisal and coping*. New York: Springer.

'Self-blame' which is emotion-focused and maladaptive coping. Finally, some mothers employed 'Self-Transformation' and 'Planning and Preparation' — two coping techniques that we labeled as mixed because while incarcerated mothers talked about getting jobs, finding place to live after release and staying out of drugs, these plans seemed to be insubstantial and indefinite. These techniques were more emotion-focused than problem-focused X because of lack of practical options and opportunities in prison and in community for female prisoners. 'Leaving prison' was a main concern that most of the time was not followed by practical solutions.

Overall, most mothers in the study used multiple coping strategies. Due to the physical constraints of the prison context as well as limited resources both inside and outside the prison, emotion-focused coping techniques were much more prevalent than problem-focused techniques. As noted by other researchers, 'Being a Good Mother' remained the most important and challenging task for imprisoned mothers. Maintaining contact with children and planning for reunification after serving time in prison are an integral part of prison life for incarcerated mothers.

Family relationship and adjustment to life in prison

Prison adjustment is usually quantitatively assessed in criminal justice literature via frequency of prison rule violations. Researchers tend to study misconduct among only male inmates' and rely upon these studies to inform their theories about the reasons behind prison violations⁸. Thus, there is an unfortunate tendency to assume that explanations originally developed to explain male misconduct also apply to females. However, studies on female and male offenders and inmates have provided ample basis to posit that various factor contribute differentially to female inmates' misconduct and their prison

adjustment. Male-oriented theories seem to neglect the distinct pathways to crime and misconduct among women such as the co-occurrence of mental health problems, drug/alcohol dependency, and prior sexual and physical victimization. Another important, above mentioned difference between male and female prisoners is that the parental role is more salient for female inmates. Thus, models of women's behavior in prison should include contact with their children and families via visits, phone calls and mail.

The literature suggests that females are considerably less likely to engage in prison misconduct compared to males. They also commit less serious and violent violations⁹. These patterns contribute to the inattention to female inmates' misconduct and the general tendency to explain it with male-oriented theories and variables.

However, there were some recent attempts to link prison misconduct with gender-specific explanations. For example, Jiang and Winfree¹⁰ found that phone calls decreased the frequency of violations for female and male prisoners. In another study, Gover, Perez, and Jennings¹¹ found that length of imprisonment increased the probability of only females' misconduct. They theorized that female inmates cope with more stressors than male inmates including mental health issues and separation from children and families. Longer imprisonment lengthens separation and isolation from their families leading female inmates to commit more prison misconduct.

Researchers are increasingly likely to include gender-specific explanations in their explanations of prison adjustment, but the number of studies examining these explanations empirically is still very limited. My recent collaborative research on prison misconduct among a national sample of state and federal prisoners found that gender and gender — related factors were fundamental in explaining prison rule violations¹². The selection of independent

Maintaining contact with children and planning for reunification after serving time in prison are an integral part of prison life for incarcerated mothers.

8. Warren, J.I., Hurt, S., Loper, A.B., and Chauhan, P. (2004). Exploring prison adjustment among female inmates: Issues of measurement and prediction. *Criminal Justice and Behavior*, 31, 5, 624-645; and Craddock, A. (1996). A comparative study of male and female prison misconduct careers. *The Prison Journal*, 76, 1, 60-80.
9. Craddock, A. (1996). A comparative study of male and female prison misconduct careers. *The Prison Journal*, 76, 1, 60-80.
10. Jiang, S., and Winfree, L. T. (2006). Social support, gender, and inmate adjustment to prison life. Insights from a national sample. *The Prison Journal*, 86, 1, 32-55.
11. Gover, A., Perez, D. M., and Jennings, W. G. (2008). Gender differences in factors contributing to institutional misconduct. *The Prison Journal*, 88, 3, 378-403.
12. Celinska, K., and H.Sung (in press 2013). Gender differences in the determinants of prison rule violations. *The Prison Journal*.

variables for the analysis was guided both by the theoretical literature on prisoner adjustment and on explanations of female offending. The twenty-four independent variables represented six major categories: demographics, history of victimization, criminal history, current legal status, substance use and mental health status, prison program participation, and social support. Concordant with prior literature, younger, single, and black prisoners, those who suffered prior physical abuse, who had a substance abuse or dependence problem, who were serving a lengthier prison sentence, and who were convicted of a violent offense were more likely to violate prison rules. We also included a set of variables designed to capture pathways to criminality relatively prevalent among women with a particular emphasis on the role of parenting from prison. Unfortunately, some results failed to confirm our hypothesis. For example, although female inmates report more incidents of abuse in childhood, both prior sexual abuse and physical abuse were unrelated to prison rule violations for females. Likewise, we unexpectedly found no relationship between having a psychiatric disorder and the odds of prison rule violation for females. On the other hand, we found that the number of phone calls during the past week and the number of visits reduced rule-breaking behavior among females. The higher number of phone calls was also a protective factor for male inmates, but visits did not have a protective effect. This seems to bolster our theory that support from families and children and sustaining a strong parental identity are not only more significant for women than for men but that the visits in particular help women to protect their 'Good Mother' image and assist in their prison adjustment.

These preliminary findings have several limitations. Some important and relevant variables were not available for analysis. For example, the social support measures did not differentiate between contacts with children and contacts with other family members. Nor was it possible to separately measure the number of phone calls and the number of visits involving children. Moreover, no variable on mail from family and friends was available. Thus, the issue of social support and maintaining contact with families and children is ripe for further analysis.

Discussion

Female and male inmates differ in their characteristics, experiences and needs. Yet, researchers tend to employ male-oriented theories and variables when studying female prisoners' behavior. The reliance upon male-oriented concepts and theories has narrowed the scope of research on coping with separation from children and families, on prison adjustment, and especially on prison misconduct.

This article, based on my prior collaborative research, aimed to enhance our understanding of how female inmates cope with separation from their children and how sustaining contact with families might help in adjustment to life in prison. There is no doubt that incarcerated mothers tend to focus on their relationships with their children and present themselves as mothers first, regardless of the nature of their relationship with children before incarceration. The coping techniques that they employ while in prison have a couple of meanings — women not only cope with separation from their children and families but also use the same techniques to cope with imprisonment. Given opportunities to cope better with separation from families and children, they would also adjust better to prison life which would yield less misconduct.

Research that focuses specifically on female inmates, on coping techniques that they employ and on prison misconduct may yield useful information for correctional policy-makers and practitioners. Models of prison misconduct among female inmates will suggest risk and protective factors that should be of interest to those who wish to reduce inmate misconduct and improve prison adjustment. Information on the prevalence and predictive influence of various coping methods and techniques will be particularly important in this connection. For example, whether visits, mail, and phone calls positively predict prison adjustment has obvious policy implications. In sum, the research findings will inform corrections' interventions that seek to minimize female inmate misconduct while improving their coping capabilities and prison adjustment. In addition to offering important scholarly contributions, this research will recommend specific correctional policies that, if implemented, might have a positive impact on female inmates, their children and women's prospects of successful reentry.

Daily life in overcrowded prisons:

A Convict perspective on Italian detention

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Experience of prison and Convict perspective

As is the case for many researchers, my research questions and methodology stem from indirect but personal experience of detention, which has developed over the course of various experiences. Fifteen years ago I began monitoring prison conditions for an association which deals with protecting the rights of prisoners in penal institutions in the north of Italy. Subsequently I entered prison as a university professor and I then took on the role of coordinator of teaching activity at the university centre of the prison in the city where I live, which is something I continue to do. Being asked to hold a course on prison conditions and prisoners' rights for the Master's degree in Sociology led me to delve deeper into this topic and led me to discover that there was a great scarcity of sociological research on life in prison in Italy. In Wacquant's well-known paper, *The Curious Eclipse of Prison Ethnography in the Age of Mass Incarceration*¹, I found the discouraging confirmation that this lack of interest in the dynamics inside prisons was not confined to Italy, however I also discovered that it was easier to conduct prison research in other European countries than in Italy². Take, for example the research of French anthropologists and sociologists³, Anglophone psychologists and sociologists⁴, not to mention the vast quantity of work on prisons produced in the United States. And it was from the US that I found a further stimulus. Shortly before John Irwin's death I came to learn about Convict Criminology, and its attempt to challenge academic truths on prison. Finally, but related to this perspective, I came into contact with a magazine which is written entirely by convicts of the prison in my city. This is no

simple prison magazine as it has become one of the major sources of information and debate on prison and detention on a national level. This was fundamental both in providing me with easier access to the prison, and also in terms of the daily material that it produces (press reviews, in-depth examination of certain issues, discussion groups).

This helps explain the origin of my desire to give voice to prisoners in my description of prison conditions which in Italy, as in many other European countries, have deteriorated drastically. The main idea was to trust their oral and written testimonies, banking on the potential of their words to deconstruct official discourses on prison⁵.

Prisoners' testimonies often shed a different light even on what passes in front of the observer's eyes, and provide meanings which would otherwise be inaccessible: men packed into cramped cells are no longer purely an issue of square meters, the walkways without shelter evoke torrential rain in winter and burning sun in summer, the density of tables for visits with relatives talk of the intimacy which is denied... 'this is the reality, and to hell with what the experts say'⁶ say exponents of Convict Criminology⁷ from the United States, the country of mass incarceration.

The Italian context

In recent years in Italy, as in other countries, we have found ourselves facing what Garland (2001) has defined as a process of alignment with systems of penal control which have been consolidated in the last twenty years in the United States and the United Kingdom. During this time, processes of criminalization have become more and more aggressive and selective, affecting the most disadvantaged social groups. The Italian version of Zero Tolerance took the form of the so-called 'prison-filling laws' (*leggi riempicarcere*)⁸: the

1. Wacquant L. (2002) *The Curious Eclipse of Prison Ethnography in the Age of Mass Incarceration* in *Ethnography* Vol.3 p.371-397.
2. See Degenhardt, T. and Vianello, F. (2010), *Convict Criminology: provocazioni da oltreoceano. La ricerca etnografica in carcere in Studi sulla questione criminale* Vol.1, p.9-23.
3. Le Caisne, L. (2000), *Prison. Une ethnologie en centrale* Editions Odile Jacob, Paris; Chauvenet, A. Rostaing, C. and Orlic, F. (2008) *La violence carcérale en question* Presses Universitaires de France, Paris.
4. Liebling, A. and Maruna, S. (2005) *The Effects of Imprisonment* Willan Publishing, Cullompton.
5. See Becker, H. (1967) *Whose Side Are We On?* in *Social problems* No. 14, p.239-247; Brown, D. (2008) *Giving Voice: The Prisoner and Discursive Citizenship* in Anthony, T., Cunneen, C. *The Critical Criminology Companion* Hawkins Press: Annandale (NSW), p. 228-239.
6. Rideau, W. and Wilkberg, R. (1992) *Life Sentences: Rage and Survival behind Bars* Times Books: New York.
7. See Ross, J. and Richard, S. (2003) *Convict Criminology* Thomson Learning: Toronto.
8. See Mosconi, G. (2010) *Il carcere in Italia*, in *Associazione Italiana Sociologia, Mosaico Italia. Lo stato del Paese agli inizi del XXI secolo*, Franco Angeli: Milano p 418-424.

law on second offence (the so-called *ex Cirielli*), which limits access to benefits if a crime is repeated; immigration law (the so-called Bossi-Fini and subsequent security package), which condemns tens of thousands of migrants to illegal status; and drugs laws⁹, which criminalize drug consumption. We now have 68,000 prisoners, and overcrowding has once again reached intolerable levels: the effects of a recent amnesty have thus been lost. At the end of the decade the highest number of detainees of the post-war period was recorded and Italy's incarceration rate was amongst the highest in Europe (127 detainees per 100,000 inhabitants) — excluding former Soviet bloc countries — with an overcrowding index of just under 150 per cent with respect to capacity.

A convict perspective on real detention conditions

In this section we seek to offer a brief description of living conditions in overcrowded prisons. We listened to and recorded convicts in individual interviews and group discussions. We sought, as far as possible, to work 'with' prisoners rather than 'on' them¹⁰. Once the general theme was defined together, that is prison conditions in the current situation of overcrowding, we asked the prisoners to suggest issues which they would subsequently discuss in 'communicative discussion groups'¹¹. Some of the interviews we gathered were carried out by the convicts themselves with their fellow prisoners, under our supervision.

The warehouse prison

I am a 'inmate dog' or a 'dog of inmate' and I appeal to animal rights associations to be adopted as an 'ANIMAL' closed in a cramped and overcrowded kennel prison, just as dogs are locked in cages. (SN)

The first image which emerges is that of the 'warehouse prison' — following John Irwin's¹² well

known definition — a prison which can contain and control thousands of inmates assigned to middle security levels, by cramming them into confined spaces with very limited access to rehabilitative and recreational programs. As well as having an influence on individual living space, overcrowding also influences shared space for activities. It has become difficult to perform even the most simple daily activities:

Here space is the most strongly felt problem,... in the sense that here cells have a bunkbed and another bed in L position, all in a small cell. This means that to get out of bed or to eat or to do anything inside the cell it is really difficult for 3 people to move, so we have to move one at a time. Regardless of the number of square metres which may be right or wrong, having three of us in a cell is really difficult. (Elp)

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This situation (already in contrast with art. 3 of the European Convention on Human Rights on inhuman or degrading treatment) necessarily has an impact on other aspects of prison conditions, such as access to ventilation and natural light, respect for basic sanitary requirements and availability of adequate toilet facilities. It is thus not merely a question of

square metres (the 3 or 4 square metres sanctioned in the well known Sulejmanovic sentence which eventually required Italy to pay compensation, however symbolic, to the foreign inmate Sulejmanovic), but also ventilation, light, heating, health care and adequate structures, with the possibility of using the toilet in private and having regular access to showers¹³.

This is the prison where until not so long ago the toilet was in view ... there are still cells like that, those for isolation are still like that, with three people per cell, there are six cells for three ... There are still some prisons where the toilet is in view ... (Elp)

9. (c.d. Fini-Giovanardi).

10. Flecha, R. and Gomez, J. (2006) *Participatory Paradigms : Researching « with » rather than « on »* in Osborne M., Gallacher J., Crossan B. *Researching Widening Access to Lifelong Learning: Issues and Approaches in International Research* Routledge: London.

11. Ibid p.137.

12. Irwin J. (2005) *The Warehouse Prison: Disposal of the New Dangerous Class* Roxbury: Los Angeles.

13. See Verde, S. (2011) *Il carcere manicomio* Sensibili alle foglie: Roma p. 69.

The description provided by a prison manager¹⁴ confirms these notes:

The serious hygienic and living conditions, worsened by chronic overcrowding, have transformed detention into legalized torture: the so-called guests of the prisons are often forced to live packed in cramped, damp, humid cells, with water infiltration; they take it in turns to stand up and stretch their legs; they eat a step away from the toilet. In some cases they sleep on the floor on fetid foam mattresses chewed by mice, amongst beetles and other insects, at risk of infective and psychosomatic disease’.

The combination of material problems and physical constraints which are aggravated by the current overcrowded conditions end up converging in an overall state of profound psychic distress which risks becoming unbearable if extended for long periods of time:

I think that a serious problem linked to overcrowding is the psychological damage to all prisoners. Since we all suffer when there are three of us, there are little things that we put up with every day, out of goodwill, to be reasonable, but living for years — because the sentences are long — in this condition, three people with practically one and a half metres we can use ...if you take away the furniture, the bed, you have one square metre left. Where can we move? Nobody deals with this mental condition. Because people who have been putting up with this for years cannot but have a serious problem — I’m not an expert — a health problem too. In the end people explode, and nobody asks why. You are guilty for what you have done, but after months, years of living in this condition a person’s mind is permanently damaged. (Mip)

Towards the end of the nineties a new indicator of overcrowding was introduced in Italy, according to

which a ‘tolerable’ capacity could be defined for every penitentiary institute. The criteria for which the capacity of a detention centre can be declared tolerable have never been explicitly defined: this figure undergoes suspicious changes over the years, getting higher and higher. This casts serious doubts on the figure that defines what is tolerable, and means that it cannot be used for research purposes.

Management capacity or habit are what determine the ‘tolerable’ number, in the sense that first there used to be two per cell — even if these new prisons were constructed with the idea of single cells — and the tolerable number was two; now they have started adding third beds, and since it is over a year here that there is a third bed, in one year’s time this will become the tolerable number. It won’t be what it was originally, or what it was at the time of the amnesty. Now what will become tolerable is the number that there is, because you get used to having three beds per cell, the prison functions and so that means this prison can tolerate this number of people. Hence the issue of floor space disappears, it is no longer a parameter. The only parameter is habit and the ability to keep inmates under control. (Elp)

The criteria for which the capacity of a detention centre can be declared tolerable have never been explicitly defined: this figure undergoes suspicious changes over the years, getting higher and higher.

It is clear that the concept itself of ‘tolerable’ detention conditions is historically determined. It seems to ultimately boil down to two factors: the first is easily intuitable and is the country’s degree of civilization, that is democratic sensitivity to the condition of detainees; the second, more prosaically, is as the interviewee affirms — the ability to manage conflict within prisons. For this reason, as Salvatore Verde affirms ‘we can safely say that at the time of writing the tolerable capacity of the Italian detention system is 67,971 inmates’¹⁵, that is everyone who is currently in prison.

14. Castellano, L. and Stasio, D. (2009) *Diritti e castighi. Storie di umanità cancellata in carcere* il Saggiatore: Milano p. 14.

15. Verde (2011) p. 12 see n.13.

The 'car park' prison

The second image evoked is that of the 'car park prison', a prison in which, aside from the available floor space¹⁶, you can survive by doing absolutely nothing, waiting for time to pass. Behind the alibi of emergency and overcrowding, regardless of the by now abused appeal to the Constitution, there are sections inside which merely contain tens of thousands of people. 'In the sections there are very high levels of distress, which are also due to the overcrowding, but above all to the total inactivity', underlines BT. With a certain sense of humour, LG — who has served over 20 years of prison — tells us:

Closed for 22 hours a day, prison offers a lot of activities to rehabilitate convicts: TV for culture, playing cards as sport or a few press ups in the bathroom, since as there are 8 of us in a cell it is the only place where you can avoid cigarette smoke, and for training courses and rehabilitation you have the chance to meet other prisoners on the prison walkway during your hour of open air. (LG)

This is the daily reality of most of the people who cannot access any of the official activities (cultural, training, work) the penitentiary system is supposed to run. It is also worth noting that often, when you manage to get access to one of these activities, it could mean you miss out on your hour of open air:

Due to a lack of personnel, lack of space etc. the hour of open air is more and more at risk. For instance, if you do another activity, last year you could still have your hour of open air, whereas now it has become an alternative to the activity because of the lack of personnel, lack of spaces... (ORP)

The system talks of individualized treatment preceded by observation of the convict. The truth is that most of the prison population has had no contact with the institution: 'any training, no project and no

evaluation' says OS, which clearly has a negative effect, apart from on the whole point of the detention, but also on the already limited opportunities for being given leave or early exit.

I was at Giudecca prison, there the overcrowding is always the same, the number of women is static, it is always more or less the same number, there the situation has got worse because there is less and less staff, the judges don't have the courage, it's that too, which in overcrowded positions is even worse, the lack of prospects towards outside. If you are inside and you suffer, but you know that you are following a project, that you can hope to have a permit to leave, an 'articolo 21', you can carry on, you set yourself an objective, you don't let things get you down... There was a group of about ten women, who have about a year, two years time to do, year and a half, all of them inside, all inside... that too is a great problem today. What you can put up with if you have some prospect, a hope towards leaving, gets even more unbearable if you are locked inside and you don't see any prospects opening. (ORP)

Most of the prison population are weak subjects, with limited, if any, personal resources and external support and are already considerably vulnerable before entering prison.

The hospice Prison

The third image is that of the 'hospice prison'. Most of the prison population are weak subjects, with limited, if any, personal resources and external support and are already considerably vulnerable before entering prison. The general social distress is aggravated by personal situations marked by dependence on drugs or mental illness. Despite the formal possibility of gaining access to alternative detention measures, it is estimated that 30 per cent of inmates have certified problems linked to drug abuse¹⁷. Most of these people, and in general most of the prison population, are regular users (and abusers) of psychotropic drugs: according to a director of the prison administration this is the case for about 80-90 per cent of the prison population. More in-depth conversations allow us to estimate that at least 60 per cent of inmates make daily use of these medicines. 'My day is characterized by waiting for the distribution of

16. Kalica, E. (2011) *Sovraffollamento: per favore, non parlate più di metri quadri* in *Rassegna italiana di criminologia* No.3 p.65-71.

17. Jocteau, G. (2011) *Repressione penale e droga. Uno studio sull'impatto della legge Fini-Giovanardi a cinque anni dalla sua entrata in vigore* in Associazione Antigone. *Le prigionie malate* Edizioni dell'asino: Roma p.39-47.

psychotropic drugs and for peace in my sleep' writes DV, 31 years old.

If nobody is willing to help a prisoner, and a prisoner cannot handle prison, he is lost. There are young men who take 200 drops a day: what kind of doctor gives 200 drops a day for six years? What has medicine come to? No doctor prescribes tranquilizers for 8 years: they are given for 3, 4 days, then you have to see what effect they have, these people need to be taken care of. What do they become? They become hooked on medicines, worse than drug addicts. (MIP)

According to some convicts it is an institutional response to what is considered in the end a legitimate request to stupefaction: 'they need to not think', a prison doctor says, 'to sleep, to put up with prison' as a nurse affirms; for others it is a control strategy aimed at reducing episodes of self harm and violence to others¹⁸: 'the prison system is mainly concerned with avoiding disorder (conflictual actions) and delegitimation of the system (acts of self harm or suicide), and psychiatry, which is familiar with controlling humans in captivity, resorts to its long-standing vocation, the chemical submersion of suffering'¹⁹.

Besides this widespread use of psychotropic drugs, the number of psychiatric patients is estimated to be over 20,000 people: people who are regularly treated with psychiatric protocols, constantly sedated, at risk of self harm and in some cases suicide, treated according to emergency-outpatient procedures, that is they intervene only when there are striking manifestations of distress: 'there is no integrated, multidisciplinary approach, not even the shadow of integrated teams'²⁰.

This is prison

The sheer numbers in this neutralizing, containing prison in relation to the prison population as a whole

suggest that no attempt is even being made to take responsibility for people sentenced to prison. Over half of the country's prison population finds itself in the situation described above, confined to minimum living spaces and living under daily sedation. Of the 68,000 inmates in Italian prisons very few manage to gain access to 'treatment activities'. In one of the prisons considered among the best in the country, less than 30 per cent of prisoners manage to get access. It is pointless summing the percentage of those who are enrolled in a study course (about 20 per cent, slightly less than 15,000 enrolled in the various courses in the 2009-2010 academic year), those who work (about 14,000 inmates, that is about 20 per cent of the total but with very diverse positions, often 'fractions of jobs'²¹ — or take part in training courses (about 11 per

cent) or in the various cultural activities. What prisoners seem to agree on is that in the warehouse prison those who can make themselves heard, who can elbow their way, who have the strongest personal and social resources, get the best deal. Even for the outside observer who spends enough time inside the prison it is easy to realize that it is always the same convicts who get to work — despite the ranking system that is supposed to have been established by the law — and to study, and take part in activities. For the others, the majority, prison is a true social dumping ground²², a place for mere containment, a place people leave after a long

deculturation process, in conditions of worse deprivation than when they entered.

The prison population seems to be increasingly left to their own devices. Besides the numbers, also the main issues that shape the current debate on the future of prisons are evidence of this: the quality of recent plans for extending and increasing prison buildings, the much publicized strengthening of security and the prospects of a systematic use of evacuation and transfer have no relation to treatment and rehabilitation. In the face of 30 per cent cuts in regular funds for the prison system in recent years, the car park prison is being extended, with the recent prison plan including twenty

What prisoners seem to agree on is that in the warehouse prison those who can make themselves heard, who can elbow their way, who have the strongest personal and social resources, get the best deal.

18. See Sbraccia, A. and Vianello, F. (2010) *Tensioni e transizioni nel sistema penitenziario del Veneto* in *Antigone*, V, 1, p.195-246.

19. Verde (2011) p.46 see n.13.

20. See Verde (2011) p.45 see n.13.

21. See Scalia, V. (2011) *Lavoro e carcere. Un matrimonio impossibile?* in *Associazione Antigone*, edited by, Le prigionie malate, Edizioni dell'asino, Roma p.166-171. See also Verde (2011) see n.13.

22. See Margara, A. (2000) *Difensore civico e magistrato di sorveglianza* in Cogliano A. a cura di, *Diritti in carcere. Il difensore civico nella tutela dei detenuti* Quaderni di Antigone: Roma p.93-99.

new wings to extend already existing structures, which means they will encroach on the space of already overloaded buildings and facilities and remove some of the existing social spaces and areas for treatment activities, sacrificing football fields and courtyards²³. It may seem to be a secondary issue, but in a situation of deprivation of freedom, access to sporting activities is of great importance:

It's not like I was mad on sport. It was important for me because it was the only thing that kept my spirits up in this place. It was like a hope for me, so as not to fall down, like I saw other guys do, those who started drinking wine or taking medicine, they took drugs and got really down ... through desperation, maybe because of their families, their trial... By training I managed to get rid of all that energy and anger on the weights... I'd build with salt, plastic bottles, broom handles... I also bothered my cell mates because there were 4 of us in a tiny cell, but I tried to make them understand: they had one or two years to do, I had twenty. They understood, so I'd keep training, doing 3 or 4 hours of sport a day... That way I managed to jump those times when I wanted to shout or call the guards ... I even tried to apply for a job, a course, something, but nothing. Once a guard told me: don't bother doing those applications any more because we collect the ones with your name, and so I completely gave up. All I could do was train, because there was nothing else. (SEP)

On their part, the eleven new institutions respond to the identified need for accommodation through the main entry points and residences of those arrested, with no evaluation of the existing or potential resources needed to meet treatment needs or training requirements²⁴.

In all these prisons that they are thinking of building around the place, I am sure none of them have spaces which can be used to involve prisoners in suitable activities. If tomorrow somebody wanted to open 200 jobs, where would they open them? There's no space. There's no space. They build prisons and then they say: look I haven't got any space, I've no room, and everything stops there. They should think from the outset that space is needed: if they put 800 people in prison, they all have to work. Then maybe there won't be any jobs, but at least create a couple of extra warehouses, that is to say. Create space'. (DA)

In the last ten years the funds for prison psychologists have been drastically cut (by 70 per cent) in the face of an unprecedented rise in acts of self harm, suicide attempts and actual suicides. . .

On the contrary, it seems clear that the objective of the recent prisons plan 'is the pure and simple saturation of prison spaces, according to the practice of storage, the compression (real or digital) of archives or warehouses'²⁵. Only in this sort of perspective can the systematic use of evacuation and transfer (usually 600 a year from one of the most crowded prisons in the North east, with 230 people per 100 spaces) be seen as an acceptable tool for prison management. And what also begins to become clear is why in this context the more extraordinary numbers create less of an outcry: those related to the number of people who work in prisoner treatment. For every 100 prisoners, to date, in the Italian institutes we have 50 prison guards and two rehabilitation workers. In the last ten years the funds for prison psychologists have been drastically cut (by 70 per cent) in the face of an unprecedented rise in acts of self harm, suicide attempts and actual suicides (after calculating her presence and time the prison psychologist says she can dedicate '6 minutes a year to each prisoner').

Conclusions

In the previous decade, with reference to the Men's Central Jail of Los Angeles, Wacquant affirmed that it hosted an infirmary which 'comes in third place in the

23. See Naldi, A. (2011) *Trattamento penitenziario ed esecuzione della pena. Il caso della Lombardia* in *Associazione Antigone*, edited by, Le prigionieri malate, Edizioni dell'asino: Roma p.98-102.
24. Burdese, C. (2011) Nuovo regolamento del 2000, concorso per nuove tipologie edilizie del 2001, carcere e città, in Anastasia S., Corleone F., Zevi L., *Il corpo e lo spazio della pena. Architettura, urbanistica e politiche penitenziarie*, Ediesse: Roma, 95-117.
25. Anastasia, S. (2011) *La forma della pena: alternative nelle politiche penitenziarie* in Anastasia S., Corleone F., Zevi L. *Il corpo e lo spazio della pena. Architettura, urbanistica e politiche penitenziarie*, Ediesse: Roma see p. 135-148).

hierarchy of American public hospitals according to size', that it is 'also by far the country's largest hospice for mentally ill' and, 'the number one shelter for the homeless in America, and therefore the (free) world'²⁶. Even in Italy — with due proportions — prison, together with detention centres for minors and Identification and Expulsion Centres (CIE) (which at the end of last year hosted no less than 20,000 people), contains a good part of the 'irregular' migrant population (without legal status) in the country (90 per cent of the migrants which make up 37 per cent of the prison population are without papers); with judicial psychiatric hospitals — that are now being closed down — a significant sector of the mentally ill population, which receives little or no care (about 30 per cent of the prison population); in all, a destitute population with no resources and no future. It has been said that it is a social composition which facilitates a 'deafening

silence'²⁷. This leaves a small part of this prison, which we optimistically estimate to be about 20 per cent of the total prison population, which is trying to resist: through personal nature, critical spirit, or due to the luck of not finding themselves in one of the worst prisons in the country, or because they receive support from outside²⁸. We cannot deny that most of the people who have contributed to our description 'from the inside' of current prison life belong to this minority. Their contribution is doubly important, in that it seems to reflect the desire to oppose the logics of fragmentation and opportunism which dramatically characterize the prison of those excluded. Reflecting on their daily life, the prisoners brought together their complaints and expressed them in terms of rights, using, probably for the first time, the reference to law — usually seen as a tool of oppression — as a tool to lay claim to their collective rights.

26. Wacquant (2002) p. 379 see n.1.

27. Corleone, F. (2000), I detenuti: un soggetto debole per i propri diritti, in Cogliano A., edited by, Diritti in carcere. Il difensore civico nella tutela dei detenuti, Quaderni di Antigone, Roma, 153-157.

28. See Clemmer, D. (1940), *The Prison Community* The Christopher Publishing House: Boston and more recently Marchetti, A. (2001) *Perpetués. Le temps infini des longues peines* Plon: Paris; Chaintraine, A. (2004) *Par delà des murs* Presses Universitaires de France: Paris ; Vacheret, M.(2005) *Gestion de la peine privative de liberté: regards sur la mise en œuvre concrète d'un modèle rationnel* in *Revue internationale de criminologie et de police technique et scientifique* No.3 p.259-280.

Justice Reinvestment and its potential contribution to criminal justice reform

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Introduction

A question which has bedevilled governments since the onset of the global financial crisis is how to achieve more public good or service from every unit of taxpayer resource. In the criminal justice sector, much has been said of the potential for a new approach — Justice Reinvestment, JR. However, in the UK the application of JR has been limited as there has been little agreement on what may be gained, how much can be saved and even of what JR is comprised.

The term 'Justice Reinvestment' was used for the first time by Tucker and Cadora¹ based on analysis undertaken in the USA. They argued:

There is no logic to spending a million dollars a year to incarcerate people from one block in Brooklyn—over half for non-violent drug offenses—and return them, on average, in less than three years stigmatized, unskilled, and untrained to the same unchanged block. This unquestioned national dependence on mass incarceration reflects a fundamentalist approach to imprisonment that actually sacrifices public safety.²

At its heart, JR postulates, it may be more economically efficient to prevent criminality in a neighbourhood than it is for society to try to deal with the crime and the consequences of crime. This holistic approach locates JR within economic and political debates about criminal justice and suggests that it has much to offer to current debates about criminal justice policy. However, the breadth of its vision also touches

upon broader debates about social justice and the type of society in which we want to live.

In this article we describe briefly the principles of JR and then the development of the movement in the USA and, latterly, the UK. Thinking about current policy challenges in the UK we argue that JR has never been more relevant but that its implementation would be aided by a clearer theoretical account of JR and a strategy to effectively 'sell' the concept to politicians and the general public.

WHAT IS JUSTICE REINVESTMENT?

The application of economic thinking to criminal justice policy

The term 'Justice Reinvestment' arises from the observation that, if there are more cost effective ways of reducing crime than what is currently on offer, the social resources saved from the implementation of a successful intervention will more than outweigh the costs. Therefore investment in programmes which reduce criminality will lead to a return, in terms of future costs foregone, which will more than pay for the project.

Thus JR seeks to reduce the cost of crime in the most efficient way possible; at its base is the consideration of criminal justice as a resource allocation problem. JR is not a single strategy, project, or intervention. It is a multi-stage process providing a framework for local agencies to work together to identify and reduce the drivers of criminal justice costs³.

In general, JR has two key elements. First, it seeks to develop measures and policies to 'improve the prospects not just of individual cases but of particular places'⁴. Secondly, JR adopts a strategic approach to the

1. Tucker, S. and Cadora, E. (2003) Justice reinvestment: To invest in public safety by reallocating justice dollars to refinance education, housing, healthcare, and jobs [Monograph] Ideas for an Open Society, 3. Available at http://www.opensocietyfoundations.org/sites/default/files/ideas_reinvestment.pdf

2. Ibid p.2.

3. La Vigne, N. G., Neusteter, R.S., Lachman, P., Dwyer, A. and Nadeau, C.A., (2010) *Justice Reinvestment at the local Level, Planning and Implementation Guide*, Washington: Urban Institute, Justice Policy Center.

4. Allen, R. (2007) From restorative prisons to justice reinvestment in Allen, R. and Stern, V. (eds.) *Justice Reinvestment – a new approach to crime and justice*, London: International Centre for Prison Studies p.5.

5. Ibid.

prevention of offending and re-offending by collecting and analysing data to inform commissioning decisions⁵.

Thus, a JR approach recognises the potential to create a more law-abiding society in a more effective and less costly way than the traditional detect/convict/punish approach. Many of the cost savings may come from reductions in the crime rate. This leads to measurement issues, of course, as it not straightforward to assess the level of crimes which have been deterred. Given appropriate quantitative evidence of savings made, JR proposes moving funds spent on punishment of offenders to programmes designed to tackle the underlying problems which gave rise to the criminal behaviour⁶.

As described by the UK Justice Committee⁷ there are four main stages to a JR approach:

1. 'Justice mapping':
Analysis of the prison population and of relevant public spending in the communities to which people return from prison
2. Provision of options to policy-makers for the generation of savings and increases in public safety
3. Implementation of options, quantification of savings and reinvestment in targeted high-risk communities
4. Measurement of impacts, evaluation and assurance of effective implementation

The overriding distinguishing feature of JR is its reliance for its validity on economic theory. It is this aspect which has allowed some politicians to start to re-shape the debate about criminal justice. Ideally, the principles of economics may be employed to address the constraints raised by the 'the silliness of politics'⁸. By presenting and justifying efficient solutions, the political costs of being thought to be 'soft on crime'⁹ are attenuated and the policy debate is widened. At the least, economics provides a common ground for

justifying and comparing different approaches and attitudes to criminality.

THE CASE FOR IMPLEMENTING JUSTICE REINVESTMENT IN TH UK

The origins of Justice Reinvestment: A response to increasing rates of imprisonment

In part, JR has arisen as a response to an increasing prison population. Over the most recent two to three decades, the USA prison population has tripled. According to the Bureau of Justice Statistics¹⁰ the total number of inmates in State or Federal Prisons in mid-1985 was 744,208. By the beginning of 2008, 2,319,258 adults were incarcerated — 1,596,127 in state or federal prisons and another 723,131 in local jails¹¹. The UK, has also seen the prison population rising seemingly inexorably over the last two to three decades. In 1991 the prison population was 44,800¹²; on the 22nd June 2012, according to the Ministry of Justice¹³ the prison population in England and Wales, was 86,456. This unprecedented growth in the level of imprisonment has surprised even those most familiar with the England and Wales criminal justice system.

Upon becoming Secretary of State for Justice Kenneth Clarke noted:

I am amazed that the prison population has doubled since I was Home Secretary in the early 1990s. It stands at more than 85,000 today. This is quite an astonishing number which I would have dismissed as an impossible and ridiculous prediction if it had been put to me as a forecast in 1992¹⁴.

The economic imperative

However, JR is not just a response to rising prison populations. To some extent (and, as we shall see

The overriding distinguishing feature of JR is its reliance for its validity on economic theory.

6. Allen, R. (2008) Justice reinvestment: Making sense of the costs of imprisonment, *Criminal Justice Matters*, 71:1, 41-42.
7. Justice Committee (2009) *Cutting crime: the case for justice reinvestment*, London: The Stationary Office Limited.
8. The Columbus Dispatch (2008) *Governor wants prisons re-evaluated*. 27 January 2008.
9. *ibid.*
10. Bureau of Justice Statistics (1999) *Prison and Jail Inmates at Midyear 1998*. Available at <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=173414> [Accessed 2 November 2012]
11. PEW Center on the States (2008) *One in 100: Behind Bars in America 2008*, Washington D. C.: PEW Charitable Trusts.
12. Hicks, J. and Allen, G. (1999) *A century of change: Trends in UK statistics since 1900*, Research paper 99/111, 21st December 1999, Social and General Statistics Section, House of Commons Library.
13. Ministry of Justice (2012) *Population and Capacity Briefing for Friday 22/06/2012*. Available at <http://www.justice.gov.uk/statistics/prisons-and-probation/prison-population-figures> [Accessed 2 November 2012]
14. Clarke, K. (2010) *Public services from first principles* speech given by (then) Justice Secretary Kenneth Clarke to the Centre for Crime and Justice Studies, 30 June 2010.

below, this depends partly on the model of JR under consideration), it is also a political response to a particular set of economic circumstances. Thus, whether or not the rate of incarceration in the UK and the USA is justified, it is apparent that it is no longer affordable. Expenditure on corrections in the USA has increased rapidly over recent years; total state spending rose from \$12 billion in 1987 to \$49 billion in 2007¹⁵. Costs have continued to rise since that time. The National Association of State Budget Officers¹⁶ reported that state spending on corrections totalled \$51.1 billion in the 2010 fiscal year. Even this may be an underestimate¹⁷.

In the UK In 2007, the government spent approximately 2.5 per cent of GDP on public order and safety, the highest of all countries in the Organisation for Economic Co-operation and Development (OECD)¹⁸. Up until the 2008 economic crisis spending had been remorselessly increasing. The total budget for Ministry of Justice for 2009/2010 was just over £10bn¹⁹ and the National Offender Management System (NOMS) budget, from which the cost of prisons is met, is approximately £4bn of this. In 2010 the UK coalition government announced an ambitious cost reduction of 23 per cent over four years for the two Government departments with joint and sometimes competing responsibility for criminal justice: the Ministry of Justice; and the Home Office. Their targets for capital spend were reduced by 50 per cent and 49 per cent respectively.²⁰

The rise of evidence-based policy

Nevertheless, even in these cash-strapped times, politicians might still be advised to assess how best to

reduce high prison numbers. The prisons crisis has come at a time when there is greater interest among policy-makers in evidence-based, or at any rate, evidence-informed policy²¹. From an economic point of view, interventions may be justified, even if they are costly, by their effectiveness in reducing future costs. In the UK during the first decade of the 21st Century, while prison numbers were rising, crime rates were generally falling. A cursory inspection of the data suggests there might be some degree of correlation between these two trends, however there is no evidence which suggests the rise in prison numbers has caused a *substantial* part of the fall in the crime rate.

Based on unpublished research, Carter²² claims the 22 per cent increase in the prison population between 1997 and 2003 led to a 5 per cent decrease in crime. An earlier British study was even less optimistic about the scale of incarceration effects: Tarling²³ concludes a one per cent reduction in crime requires a 25 per cent increase in the prison population. It is clear there is limited evidence for a reduction in crime from incapacitation.

The evidence for prison being effective at reducing re-offending amongst released prisoners (specific deterrence) is also very limited. An extensive

Systematic Review by Villettaz *et al.*²⁴ found few methodologically robust studies which made a direct comparison between the effectiveness of custodial and non-custodial sanctions. Of these, the vast majority either favoured non-custodial sanctions over custodial ones or found no difference between them. Villettaz *et al.*'s study has recently been updated by Nagin *et al.*²⁵ who note that incarceration might have a criminogenic, rather than a deterrent effect on some offenders. They conclude:

. . . whether or not the rate of incarceration in the UK and the USA is justified, it is apparent that it is no longer affordable.

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15. PEW Center on the States (2008) see n.11.
 16. National Association of State Budget Officers (2011) *State Expenditure Report 2010*, Washington DC: National Association of State Budget Officers.
 17. Henrichson, C. and Delaney, R. (2012). *The price of prisons: What incarceration costs taxpayers*. New York: Vera Institute of Justice.
 18. Duffy, B., Wake, R., Burrows, T. and Bremner, P. (2007) *Closing the gaps — crime and public perceptions*, London: Ipsos Mori.
 19. Ministry of Justice (2009) *Story of the prison population 1995 – 2009 England and Wales*, Ministry of Justice Statistics bulletin, London: Ministry of Justice.
 20. http://cdn.hm-treasury.gov.uk/sr2010_departmentalexpenditure.pdf Accessed 26th April 2011
 21. Albertson, K., Albertson, K.E., Fox, C. and Ellingworth, D. (2013) *Economic Values And Evidence: Evaluating criminal justice policy in* Cowburn, M., Duggan, M., Robinson, A. and Senior, P. (ed.s) *The Values of Criminology and Community Justice*, Bristol, The Policy Press.
 22. Carter, P (2003) *Managing Offenders, Reducing Crime: A new approach*. London: Home Office.
 23. Tarling, R. (1993) *Analysing Offending: Data, Models and Interpretations*. London: HMSO.
 24. Villettaz, P, Killias, M and Zoder, I (2006) *The Effects of Custodial vs. Non-Custodial Sentences on Re-Offending: A Systematic Review of the State of Knowledge*, A report to the Campbell Collaboration Crime and Justice Group. Available at <http://www.campbellcollaboration.org/lib/download/108/> [Accessed 2 November 2012]
 25. Nagin, D.S., Cullen, F.T. and Jonson, C.L. (2009) Imprisonment and Reoffending, in *Crime and Justice: A Review of Research*, vol. 38, M. Tonry, ed. Chicago: University of Chicago Press.

*the great majority of studies point to a null or criminogenic effect of the prison experience on subsequent offending. This reading of the evidence should, at least, caution against wild claims—at times found in ‘get tough’ rhetoric voiced in recent decades—that prisons have special powers to scare offenders straight.*²⁶

Of course, prison might reduce crime by deterring potential criminals others from committing crime (general deterrence). However, there is no strong evidence linking the decline in crime rates with the deterrent effect of increased incarceration. In fact the evidence suggests that prison has, at most, a small impact on overall crime rates. Summarising findings from three of the strongest econometric studies on deterrence, Liedka *et al.*²⁷ note that collectively the studies suggest a ten per cent increase in the prison population resulted in a 1.6 per cent to 5 per cent drop in crime rates. Indeed, it has been suggested²⁸ crime rates vary in a non-linear relationship with severity of punishment and that, beyond a certain point, increases in length of a sentence might even increase the crime rate²⁹.

Taking opportunities afforded by new technology

One organisation which has pioneered the use of JR in the United States is the Justice Center at The Council for State Governments. They describe JR as:

*a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease crime and strengthen neighbourhoods.*³⁰

To some extent, JR in the USA was made possible by the increased availability and power of computing. Thus, it has built on the development of ‘crime

mapping’ as a distinct sub-discipline within criminology and an important tool used by a range of practitioners within the criminal justice system, particularly the police. Justice mapping is one of the building blocks of JR and uses computer mapping to ‘visualise traditional criminal justice data in new geographic dimensions’³¹. This technological revolution is not over. New hardware and software is only useful if relevant data is accessible. In the UK in recent years the UK government has implemented a Transparency Agenda³² and as a part of this, has made available a growing number of public sector data sets. This is opening up new possibilities for analysis which may underpin new JR projects in the UK.

However, JR is not simply motivated by a technological revolution. The early, more radical model of JR linked new analytical possibilities to a strong account of the interplay between individual characteristics, the family and the community in shaping offenders. Thus, in the USA, ‘justice mapping’ involves more than simply the generation of plots showing the residential addresses of offenders. They are:

*‘Geographic audits’ [that] make connections between criminal justice expenditures and the well-being of neighbourhoods on behalf of whose inhabitants those resources are deployed.*³³

Thus technological progress has made possible the representation of links between important aspects of offending, re-offending and their relationship with wider social issues. These were very often known intuitively by professionals working in the system, but had proved difficult to convey in simple terms to policy-makers.

In the UK a renewed interest in localism and civic renewal, combined with new technology and data transparency present similar possibilities.

... there is no strong evidence linking the decline in crime rates with the deterrent effect of increased incarceration.

26. Ibid p.178.

27. Liedka, R.V., Piehl, A.M. and Useem, B. (2006) The Crime Control Effect of Incarceration: Does Scale Matter? *Criminology & Public Policy*, 5(2), pp.245-276.

28. Eide, E (1999) The economics of criminal behaviour, in: B. Bouckaert and G. De Geest (Eds.), *Encyclopedia of Law and Economics, V. The Economics of Crime and Litigation*, Cheltenham: Edward Elgar.

29. See Shepherd, J. (2006) The Imprisonment Puzzle: Understanding How Prison Growth Affects Crime, *Criminology & Public Policy*, 5(2), pp. 285-298 and Liedka et al (2006) see n.27.

30. Council of State Governments Justice Center (2010) *Justice Reinvestment Overview*. Available at www.justicereinvestment.org/files/JR_overview_2010_rev.pdf [Accessed 2 November 2012] p.1

31. Cadora, E. (2007) Justice Reinvestment in the US, in R. Allen and V. Stern (eds) *Justice Reinvestment – A New Approach to Crime and Justice*. London: International Centre for Prison Studies, King’s College p.11.

32. See <http://data.gov.uk> and Cabinet Office (2012) *Open Data White Paper: Unleashing the Potential*, London: Cabinet Office

33. Cadora (2007) see n. 31 p.11.

THE RISE OF JUSTICE REINVESTMENT: SOCIAL JUSTICE OR SYSTEM REDESIGN?

The JR movement started in the USA at around the turn of the new millennium and has developed in a variety of ways since.

Social Justice redesign underpinned by Justice Reinvestment theory

Early concepts of JR were motivated by the observation that some communities are clearly more in need of criminal justice interventions than are others. As Cadora recounts:

The phrase 'million-dollar blocks' was coined to refer to research findings which show that in certain communities states are spending up to a million dollars per block to cycle residents back and forth from prison each year.³⁴

The question Cadora and other pioneers of JR asked was simply whether this resource might be better spent on other criminal justice/social justice interventions. The suggestion and vision of JR was to 'to invest in public safety by reallocating justice dollars to refinance education, housing, healthcare, and jobs.'³⁵

This early model of JR places criminal justice within a broader model of social justice. Indeed, implicitly the strategy implies it is less than efficient to separate the two. Thus, part of the JR approach is to prevent criminality arising in the first place and, where it does arise, there is a need to address its underlying causes in communities and families. Clearly, social innovations based on rehabilitation can not reach those individuals who are currently at risk of becoming first-time offenders. Therefore, interventions based on 'prehabilitation'³⁶ must take a holistic view of the society from which offenders come.

In their consideration of the strengths of the JR approach, the Commission on English Prisons Today argues 'Justice Reinvestment is not about alternatives within the criminal justice process, it is about alternatives outside of it'³⁷. To the Commission, the JR

approach allows the social consideration of the problem of criminality. It is in the interlinking of localised costs and benefits — including social costs and benefits — where real opportunities arise for innovation and cost savings.

Criminal Justice redesign underpinned by Justice Reinvestment theory

Over recent years the scope of JR in the USA has started to narrow. According to Tony Fabelo, who was involved with the Council of State Governments 2007 Texas initiative, and was interviewed by the authors in August 2011, JR was initially seen as a way of 'reweaving the fabric of society'. Fabelo acknowledged that JR is a changing concept and that use of the term varies from state to state in the USA — also it is changing in line with the current political emphases of the USA. In the early JR interventions, a unifying theme was to intervene in neighbourhoods to reduce incarceration and 'free-up' resources for further investment, (reinvestment) at neighbourhood level. Now, Fabelo reports, money saved from successful interventions is more likely to go on closing the fiscal gap.

While the focus of JR has remained 'efficiency', the concept of efficiency and the time frame over which savings may accrue have been reconsidered. Increasingly the aspirations of JR

programmes are limited to reducing the use of incarceration through analysis of demand for prison places and identifying opportunities at different points in the system to divert offenders from custody and/or reduce the likelihood of re-offending on release. This model of JR — which we may describe as a criminal justice system redesign approach — places little attention on what is happening beyond the criminal justice system or on preventing criminality in the first place.

Justice Reinvestment as a continuum

We would not argue that JR interventions will generally fall neatly into one of these categories. In reality social justice and criminal justice are not mutually exclusive models. In fact, what they represent is JR as a continuum, where the approach that is adopted by local,

The suggestion and vision of JR was to 'to invest in public safety by reallocating justice dollars to refinance education, housing, healthcare, and jobs.'

34. Ibid p.11.

35. Ibid.

36. Justice Committee (2009) see n.7

37. Commission on English Prisons Today (2009) *Do Better, Do Less: The report of the Commission on English Prisons Today*, London: The Howard League for Penal Reform p.49.

regional or national agencies may be shaped by dynamic factors — factors which can and do change over time.

Justice Reinvestment in the UK

To date, a full 'Justice Reinvestment' model has not been implemented in the UK. However, a number of projects in the UK have implemented discreet elements which could be said to be in line with the principles of JR; for example, the Diamond Initiative in London³⁸ and a JR project in Gateshead³⁹. These and other UK projects have experienced various challenges including: drawing in partners; developing effective incentive structures; and grappling with issues of scale⁴⁰. To date, no UK project can be said to have implemented a 'full' JR vision. Nevertheless, JR was thoroughly reviewed by the House of Commons Justice Committee and was given a broad endorsement by that cross-party body⁴¹.

One of the key issues of JR is an increased emphasis on localism and a particular case has been made for the devolution of youth budgets to local level. This has underpinned several ongoing initiatives including The Youth JR Pathfinder Initiative and Transforming Justice. The transfer of remand custody budgets for youth in England and Wales will take place in April 2013.

Generally, JR in the UK, particularly in the adult criminal justice system, has adopted what we describe above as the narrow sense of JR: redesign of criminal justice systems with a view to reducing costs, primarily through demand for custodial sentences. In the remainder of this article we argue the time is ripe for a more radical implementation of JR, that the current policy landscape provides a number of opportunities to achieve this but that there is a need to develop a clearer theoretical account of JR and a strategy to effectively 'sell' the concept to politicians and the general public.

REALISING THE POTENTIAL OF JUSTICE REINVESTMENT

It is clear there may be a case for implementing JR in the UK. However, this does not guarantee that JR will

be implemented. In this section we argue that more work is needed before such an innovative and potentially transformative approach can be widely implemented in the UK. This work includes: further theoretical development; a clearer presentation of JR to policy-makers and the public; and greater exploitation of current opportunities in the policy landscape.

Theoretical development

Justice Reinvestment is unavowedly an 'economic' based approach. Notwithstanding, to date very little work has been done to develop a coherent theory of JR. This is of more than merely academic importance. A clearer theory of JR can help policy-makers place it in the broader policy landscape and highlight potential synergies and conflicts with broader economic and social policies. For researchers and evaluators a clearer theory of JR will give an important steer to the kinds of research methods and evaluation designs likely to be most productive. At present, there is not even a clear definition in the UK of what comprises a JR informed intervention.

In an interview with the authors in 2011, Rob Allen, an early UK proponent of JR and Special Advisor to the House of Commons Justice Committee when it produced its influential report on JR⁴², expressed dismay and frustration about the development of JR in the UK. He welcomed the interest in JR from national and local policy makers from across the political spectrum, but observed that JR was like 'motherhood and apple pie' — no-one is going to disagree with it. However, if you ask individuals what they mean by JR, this was a different matter. Allen posited that conceptualisations of JR varied considerably — 'Three or four people will give you five or six definitions of what it is'. Compare for example Home Office Minister, Nick Herbert's pronouncements⁴³ about the equivalence of JR with Payment by Results to Allen's own view of JR as a progressive way of linking together three critical elements: reducing imprisonment; local responsibility for organising and resourcing offender rehabilitation and reintegration; and a focus on effective use of resources.

One of the key issues of JR is an increased emphasis on localism and a particular case has been made for the devolution of youth budgets to local level.

38. Allen (2008) see n. 6 and Commission on English Prisons Today (2009) see n. 37.

39. Allen, R. Jallab, K. and Snaith, E. (2007) *Justice Reinvestment in Gateshead – The story so far*, in Allen, R. and Stern, V. (eds) *Justice Reinvestment – A New Approach to Crime and Justice*, London: International Centre for Prison Studies.

40. Fox, C., Albertson, K. and Warburton, F. (2011) 'Justice Reinvestment: can it deliver more for less?' *Howard Journal of Criminal Justice* Vol. 50(2) pp. 119-136.

41. Justice Committee (2009) see n. 7.

42. Justice Committee (2009) see n. 7.

43. Herbert, N. (2010) *Howard League for Penal Reform's Annual Parmoor Lecture*. Available at http://www.nickherbert.com/media_centre.php/386/Parmoor%20Lecture [Accessed 2 November 2012]

What is required is the development of a theory of JR which emphasises the 'economic' approach, but overcomes the limitations of narrowly constituted economic theory. Many theories of crime and criminality have drawn on economic theory from Enlightenment thinkers such as Beccaria⁴⁴ and Bentham⁴⁵ to social theorists such as Merton⁴⁶ and more recently those who have developed the 'criminologies of everyday life'⁴⁷. Increasingly, however, criminologists who draw on or seek to critique economic ideas in criminology take a rather narrow view of economics based on the prevailing orthodoxy: the so-called neo-liberal economic school of thought which posits society is comprised of self-serving, instrumentally rational actors.

The rise of the neo-liberal school of economic thought is well documented⁴⁸, and we recognise the precise meaning of the phrase is subject to debate. We use the term here in what appears to be its recent common understanding — that is, the paradigm of market fundamentalism which informs the so-called Washington Consensus⁴⁹. Governments which follow the neo-liberal approach in general implement policies which promote: 'free' markets; private property; the application of individual incentive structures; and a circumscribed role for government⁵⁰.

As the neo-liberal paradigm came to dominate thinking on social and economic policy, so it became increasingly influential within thinking about crime and criminal justice. Thus, Rational Choice theory, when applied to thinking about crime began to suggest that all a nation's citizens (now categorised as economic

agents) have the potential for criminality and will commit offences if they can get away with it. This is first set out formally in the analysis of Becker⁵¹. Becker's model suggests a system of deterrence through detection and incarceration as the social response to crime — though he also emphasises fines may be imposed for lesser offences; the expected cost of the fine, ideally, being greater than the expected return on criminal behaviour.

As recently as 1979, *A World Without Prisons*⁵² was envisaged, quite realistically by Dodge, among others. Scull⁵³, for example, was of the opinion that the policy of 'decarceration' was a product of the social organisation of 'advanced capitalism' and the associated rise of welfare. In their study of (USA) state level incarceration rates between 1975 and 1995, Beckett and Western⁵⁴ support this, finding high levels of incarceration are associated with weak welfare systems. However, the 'advanced capitalism' of Scull has advanced further (if advanced is the right word).

According to Beckett and Western⁵⁵ there is evidence the rise of the neo-liberal economic paradigm from the late 1970's to the present has seen the state's response to social marginality shift from welfare support to incarceration. This result is further supported by Cavadino and Dignan⁵⁶ who note that the neo-liberal economic paradigm excludes many, often whole communities, from the benefits of economic growth and effective citizenship. This leads to the denial of full effective rights of citizenship. In nations which adopt the neo-liberal paradigm, incarceration rates are higher, compared with more inclusive nations:

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44. Beccaria, C. (1764) *On Crimes and Punishments*, translation published by Hackett Publishing Company, 1986.

45. Bentham, J (1789) *Introduction to the principles of moral and legislation*, 1948 edition New York: Hafner Publishing Company.

46. Merton (1938)

47. see for example, Cornish, D. and Clarke, R. (eds.) (1986) *The Reasoning Criminal*, New York: Springer-Verlag; Felson, M. (1994) *Crime and Everyday Life: Insights and Implications for Society*. London: Pine Forge Press; Garland, D. (2001) *The Culture of Control: Crime and Social Order in Contemporary Society*, Oxford: Oxford University Press.

48. See for example Jones, D. S. (2012) *Masters of the Universe: Hayek, Friedman, and the Birth of Neoliberal Politics*. Princeton University Press.

49. Williamson (1999).

50. Gore, C. (2000) The Rise and Fall of the Washington Consensus as a Paradigm for Developing Countries, *World Development* Vol.28(5) pp. 789-804.

51. Becker, G. (1968) 'Crime and Punishment: An Economic Approach', *Journal of Political Economy*, Vol.76, pp. 169-217.

52. Dodge, C. R. (1979) *A world without prisons: Alternatives to incarceration throughout the world*, Lexington Books, Massachusetts.

53. Scull, A. (1977) *Decarceration: Community Treatment and the Deviant: A Radical View*. Englewood Cliffs, NJ: Prentice-Hall.

54. Beckett, K. and Western, B. (2001) 'Governing Social Marginality: Welfare, Incarceration and the Transformation of State Policy', *Punishment and Society* Vol.3:pp. 43-59.

55. Ibid.

56. Cavadino, M. and Dignan, J. (2006) 'Penal policy and political economy', *Criminology and Criminal Justice*, Vol: 6(4): 435-456.

One theory is that punishment is a sort of 'negative reward': societies that are prepared to reward success with higher incomes and greater social status are also more willing to punish failure with both poverty and formal sanctions. Or one could say, perhaps preferably, that a more egalitarian society is both more inclusive and less willing to consign offenders to an even more unequally low level of existence.⁵⁷

However, as Jones⁵⁸ makes clear, what is now called neo-liberalism comprises only a selective reading of economic theory. In addition, recent developments in Behavioural Economics⁵⁹ underline that economics is a much broader field than the Washington Consensus would suggest. If JR is to be grounded in a more holistic economic model, there is work to do to elaborate the theory in the context of the justice system in a form which avoids the limitations of the neo-liberal paradigm.

Fox *et al.*⁶⁰ return to the original conception of JR sketched out by Tucker and Cadora⁶¹. They develop this further into a more complete theory of JR. Their starting point is 'standard' economic theory. When economists or criminologists apply economic concepts to thinking about crime and criminal justice they usually starts with the concept of Rational Choice theory and ask how this applies to offenders⁶² and in some cases also to victims⁶³. Fox *et al.*⁶⁴ review the challenges to the standard model. They suggest that understanding crime and criminal justice starting from the premise of instrumentally rational individuals provides us with some useful insights into offending behaviour. But,

If JR is to be grounded in a more holistic economic model, there is work to do to elaborate the theory in the context of the justice system in a form which avoids the limitations of the neo-liberal paradigm.

through a discussion of the importance of intrinsic rewards, the impossibility of perfect information and that of non consensual games they conclude that Rational Choice theory falls short in both: explaining the relationship between offenders and the communities in which they live; and describing the process of desistance from offending.

Instead, Fox *et al.* argue that a different conception of rationality is needed and they turn to concepts of substantive rationality and procedural rationality. Employing the concept of substantive rationality allows us to develop a model of social action in which

reciprocal rights are central to explaining how rational actions may be constrained by social norms. This model seems to provide a much more appropriate basis for developing a theory of JR. Thus, a more realistic and subtle model of decision making is presented, one which is more in accord with the complex interactions between humans and the societies in which we live — societies which create and reinforce norms and provide the context and constraints for individuals' decisions. This approach provides the foundations for developing a theory of JR in which delivering social justice is central.

In practice, the emphasis in criminal justice based on the neo-liberal paradigm is on detection and punishment once a crime is committed. To some extent, marketised innovations to reducing reoffending are also supported by this model, for example, payment by results⁶⁵ and an application of Rational Choice theory to crime prevention has also given us situational crime prevention⁶⁶. Nevertheless this is a narrow view of the potential for prevention and the emphasis is in deterrence through the threat of punishment. However, once a broader view of economic thought is

57. Ibid p.452.

58. Jones (2012) see n. 48.

59. Thaler, RH and Sunstein, CR (2008) *Nudge: Improving decisions about health, wealth and happiness*, Yale University Press.

60. Fox, C., Albertson, K. and Wong, K. (2013, in press) *Justice Reinvestment: can it deliver more for less?* London: Routledge.

61. Tucker, S. and Cadora, E. (2003) *Justice reinvestment: To invest in public safety by reallocating justice dollars to refinance education, housing, healthcare, and jobs* [Monograph] Ideas for an Open Society, 3. Available at <http://www.opensocietyfoundations.org/publications/ideas-open-society-justice-reinvestment>

62. for example Becker (1968) see n. 51, Ehrlich, I. (1973) 'Participation in Illegitimate Activities: A Theoretical and Empirical Investigation', *The Journal of Political Economy*, Vol. 81(3), pp. 521-565; Ehrlich I (1996) *Crime, Punishment, and the Market for Offenses*, *The Journal of Economic Perspectives*, vol. 10(1), pp. 43-67.

63. for example Felson (1994) see n. 47.

64. Fox *et al.* (2013) see n.60.

65. Fox, C, and K Albertson (2011) *Payment by results and social impact bonds in the criminal justice sector: New challenges for the concept of evidence-based policy?* *Criminology & Criminal Justice*, vol.11(5) pp.395-413.

66. Cornish and Clarke (1986) see n.47.

considered, the implication for crime reduction is that investment in prevention will include measures which build community and individual resilience.

Similarly, a broader range of innovations which address the problem of reducing re-offending are suggested by a broader approach to economic theory. There remains a need to manage risk and address criminogenic needs may also be addressed. But, in this, more radical version of JR, (potential) offenders are assumed to have a degree of agency. Thus some responsibility is placed on (potential) offenders to describe their version of a Good Life and co-producing their own reintegration into society. At the same time, it is recognised individual offenders should be supported in a positive way by identifying and working with their 'assets' (their skills and experience), rather than concentrating on their deficits (criminogenic needs).

While neo-liberal models of criminal justice emphasise the deterrence of individuals, a more holistic economic approach suggests communities have a role. Building and mobilising community capacity to help reduce re-offending should be a key strategy. Fox *et al.*⁶⁷ note that there are many points of similarity between this more holistic economic model of crime and criminal justice and the Good Lives Model⁶⁸. They argue that this model of offender rehabilitation might sit comfortably within the broader theory of JR that they sketch out.

This theory of JR places greater emphasis on the important role non-criminal justice agencies play in preventing offending and reducing re-offending and implicit within this more holistic economic model is a mixed economy of criminal justice provision and an approach to commissioning that supports local communities.

In sum, we suggest that an artificially narrow view of economic thought has been drawn on to motivate criminal justice. This is often termed the 'neo-liberal' approach, though it relies on a selective reading even of the work of the founders of the neo-liberal movement⁶⁹. Most of the emphasis here is on the impact of extrinsic rewards (and punishment) on the

individual. Deterrence may be modelled as little more than fear of punishment⁷⁰. In contrast a more holistic view of economics suggests humans may abstain from crime though intrinsic motivation. In this model, the emphasis is on support of communities and (potential) offenders to reduce both offending and reoffending.

Selling Justice Reinvestment to politicians and policy-makers

With a clearer theory of JR in place, the next challenge is 'selling' JR to politicians and policy makers. What can we learn from the US experience? When we consider recent USA experience, the striking thing is that JR has been pitched in economic terms, despite the lack of thorough theoretical underpinnings. In practice, early JR projects pointed out the illogic of ignoring the

'million dollar blocks' (described above). Early pioneers of JR evoked the idea of a failed 'business case':

From an investment perspective, both our prison and parole/probation systems are business failures. These policies destabilize communities along with the individuals whom they fail to train, treat, or rehabilitate (and whose mental health and substance abuse are often exacerbated by the experience of imprisonment.)⁷¹

Building and mobilising community capacity to help reduce re-offending should be a key strategy.

As the fiscal crisis caused by spiralling prison numbers became apparent, the economic argument became even more compelling. In 2003, Frank Bowman, a former federal prosecutor noted in the New York Times that in many USA states 'people are scratching their heads and saying, 'You know, incarcerating people for that long doesn't work.'⁷². According The New York Times, 'from Connecticut to California, legislatures and governors are, with a few exceptions, eagerly finding new ways to reduce, rethink or eliminate prison sentences for crimes within their jurisdictions.'⁷³ It is this latter argument, of dealing with offenders more effectively — especially in the context of the crisis in public finances — which spurred the

67. Fox *et al.* (2013) see n.60.

68. Ward, T. and Maruna, S. (2007) *Rehabilitation*, London: Routledge.

69. Jones (2012) see n.48.

70. Becker (1968) see n.51.

71. ucker and Cadora (2003) see n.61 p.3.

72. New York Times (2003) *Rethinking The Key Thrown Away; As Ashcroft Cracks Down, States Cut Prison Terms*. 20 September 2003. Available at <http://www.nytimes.com/2003/09/28/nyregion/rethinking-the-key-thrown-away-as-ashcroft-cracks-down-states-cut-prison-terms.html?pagewanted=all&src=pm> [Accessed 2 November 2012]

73. Ibid.

development of JR in the USA. That is to say, JR needed little selling — the potential benefits sold themselves.

Also striking in the US is that JR has generally been implemented as a bi-partisan programme. Many of the early JR projects in the USA were implemented with the support of the Council of State Governments Justice Center. As a condition of its involvement in any JR project, the Council requires an invitation from all the three branches of state government (legislative, executive, judicial). This requirement is to ensure that the work will be non-partisan and broadly supported in the state. Of equal import is that JR is data-driven rather than ideology-driven and a bi-partisan approach has been helped by the fact that JR, perhaps in part because of its economic underpinnings, transcends traditional political demarcations. So, as Skolnick⁷⁴ points out, it is noticeable that, in the USA, 'progressive re-entry initiatives' are often championed by 'conservative states with conservative leaders'⁷⁵. Thus:

*It's all very warm and fuzzy, yet such policies have been championed by the likes of Newt Gingrich and Louisiana governor Bobby Jindal.*⁷⁶

Superficially, there are some similarities with the current situation in the UK, for instance rising prison numbers and an economic crisis that requires substantial cuts in public spending. There is also some evidence of a degree of cross-party support for JR. So, for example, JR was thoroughly reviewed by the House of Commons Justice Committee and was given a broad endorsement by that cross-party body⁷⁷. As in the USA, notions akin to JR seem to resonate with right-of-centre politicians as well as with those on the left. In the run-up to the 2010 national election the Conservative Party⁷⁸, which might not be thought of as a progressive party on issues of law and order, enthusiastically

endorsed the work on justice undertaken by the Washington State Institute for Public Policy⁷⁹, certainly one model of JR.

However, there are also differences between the USA and the UK. First, while in the UK it has long been recognised that offending and offenders are disproportionately located in certain neighbourhoods, rates of incarceration in the UK are much lower than in the USA and the UK does not have 'million dollar blocks'.

Secondly, there is greater organisational complexity in the UK criminal justice sector than in the USA. Consider the number of organisations involved in the delivery of custodial and community sentences in England and Wales. Overall responsibility lies with the Ministry of Justice, a central government department. The National Offender Management Service, NOMS, is an executive agency of the Ministry of Justice responsible for commissioning and delivering prison and probation services in England and Wales. NOMS is responsible for the National Probation Service and Her Majesty's Prison Service. Through these it delivers offender services by means of⁸⁰ 35 Probation Trusts, 119 public sector prisons; and several private sector organisations which between them operate 12 prisons under contract and provide other services including prisoner escorts

and electronic monitoring of offenders in the community. As we discuss below, further organisational change is planned.

Thirdly, there is limited political leadership at a local level. Until recently, the only elected politicians involved in this substantial criminal justice system employing thousands of staff were the handful of government ministers in the Ministry of Justice and the result, was that: '... local communities, however they are defined, have no sense of involvement in prisons and what goes

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74. Skolnick, A (2012) 'Runaway Prison Costs Trash State Budgets', *The Fiscal Times*, 9th February 2011. Available at: <http://www.thefiscaltimes.com/Articles/2011/02/09/Runaway-Prison-Costs-Thrash-State-Budgets.aspx#page2> [Accessed 13 September 2012]

75. See for instance: <http://www.rightoncrime.com/> which draws on many aspects of the Justice Reinvestment model.

76. Skolnick (2012) see n.74: unnumbered.

77. Justice Committee (2010) see n.7.

78. Conservative Party (2009) *Prisons with a purpose: our sentencing and rehabilitation revolution to break the cycle of crime*, London: The Conservative Party.

79. See for example Aos, S, Miller, M and Drake, E (2006) *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*. Olympia: Washington State Institute for Public Policy.

80. *National Offender Management Service (2012) National Offender Management Service Business Plan 2012-2013*, London: Ministry of Justice.

on in them⁸¹. Recently local Police and Crime Commissioners have been elected. Below we consider what opportunities for JR they might present.

Ultimately, there is at least some anecdotal evidence that the abolition of the Government Offices and reductions in local authority and policing budgets are resulting in a loss of local analytical capacity across England and Wales — an important issue for implementing a data-driven approach such as JR.

All of these challenges suggest that even with a stronger underpinning theory and a degree of political consensus, implementing JR will not be straightforward.

HOW JUSTICE REINVESTMENT FITS INTO THE CURRENT POLICY LANDSCAPE

In 2010, the Conservative Party and the Liberal Democrats formed the UK's first formal coalition government for 55 years. The first bullet point under the 'Justice' heading in the coalition agreement reads:

We will introduce a 'rehabilitation revolution' that will pay independent providers to reduce reoffending, paid for by the savings this new approach will generate within the criminal justice system.⁸²

Central to the 'Rehabilitation Revolution' is the use of Payment by Results⁸³. In its Green Paper *Breaking the Cycle* Green Paper, the Ministry of Justice proposed extending the principle of payment by results to all services for offenders by 2015⁸⁴. At the time of writing further reforms have recently *been proposed in Transforming Rehabilitation — A Revolution in the Way we Manage Offenders*⁸⁵. These latest proposals reiterate the intention to introduce a widespread programme of competition so that the majority of community-based offender services are subject to competition with providers drawn from the private and voluntary sectors

and the existing probation service allowed to join the competition by setting up new independent entities (such as employee-led mutuals). It is beyond the scope of this paper to comment on the merits or otherwise of the proposed reforms. We restrict ourselves to identifying some potential opportunities to implement a radical model of JR within this emerging policy landscape.

The latest reforms favour a mixed economy of criminal justice provision and a mixed economy is implicit within a model of JR designed to deliver social justice⁸⁶. A mixed economy is also envisaged by Tucker and Cadora⁸⁷ in their original sketch of this radical model of social innovation. They suggest the cycle of offending and re-offending can be broken by a

concerted effort from National government, state government, NGO's, the private sector, the individual at risk from criminality and his or her family working together to improve education, health, job training and (especially pertinent given the recent rise in youth unemployment worldwide, and particularly in the western democracies) job creation.

The model of JR we develop above⁸⁸ and the original model of JR developed by Tucker and Cadora⁸⁹ envisage a holistic approach to rehabilitation that extends beyond the efforts of criminal justice agencies. In

Transforming Rehabilitation the government is explicit in its desire to see providers of rehabilitation services 'tackling offenders' broader life management issues⁹⁰. It also recognises the need for offenders to be able to access a range of public services provided by other Government departments and agencies in order to tackle the multiple issues that offenders often have. Thus interest in maximising results from collective government and public sector resources is explicitly linked to delivering more effective social justice⁹¹.

Thinking about the issue of political leadership described above, Police Crime Commissioners (PCCs)

All of these challenges suggest that even with a stronger underpinning theory and a degree of political consensus, implementing JR will not be straightforward.

81. Coyle, A. (2007) 'Making prisons locally accountable', in Allen, R. and Stern, V. (eds.) *Justice Reinvestment – A New Approach to Crime and Justice*, London: International Centre for Prison Studies p.35.
82. Her Majesty's Government (2010) *The Coalition: our programme for government*. London: Cabinet Office p.23.
83. See Fox and Albertson (2011) see n.65.
84. Ministry of Justice (2010) *Breaking the Cycle: Effective punishment, rehabilitation and sentencing of offenders*, London: Home Office.
85. Ministry of Justice (2013) *Transforming Rehabilitation: A Revolution in the Way We Manage Offenders*, London: Ministry of Justice.
86. Fox et al. (2013) see n.60.
87. Tucker and Cadora (2003) see n.61.
88. Further elaborated in Fox et al. (2013) see n.60.
89. Tucker and Cadora (2003).
90. Ministry of Justice (2013) see n.85 p 17.
91. Ministry of Justice (2013) see n.85.

could provide the single point of political leadership needed to drive forward JR. Justice Reinvestment in the USA has generally involved a clear incentive structure and a single service commissioner able to realise benefits from a new approach to service commissioning. For example, in Oregon the state government turned over to the local level county administration funds equal to the costs of keeping young offenders in state criminal justice institutions. The county was given the flexibility to invest the funds into community-based supervision programmes and into neighbourhood improvement projects. Thus, an incentive was created for the local administration to reduce the use of youth custody⁹². The latest UK proposals set out a model for commissioning services where the geographies across which services will be commissioned are co-terminous with PCC administrative boundaries. The suggestion is also made that 'PCCs bring an opportunity for collective local leadership to galvanise police, local authorities, the Crown Prosecution Service and courts to work together to prevent crime and reduce re-offending'⁹³.

Finally, the general approach set out in the reforms seems to recognise the potential for social innovation to play a greater role in the rehabilitation of offenders and, when JR is theorised as an approach to delivering social justice (as opposed to a narrower conception of 'criminal justice system redesign') it is, we would argue a form of social innovation.

Unfortunately, there are also elements of the reforms which might limit opportunities for JR. A key one is the intention to use a national commissioning model for rehabilitation services with 16 geographic contract areas, but with contracts administered centrally by the Ministry of Justice⁹⁴. The Ministry argues

. . . when JR is theorised as an approach to delivering social justice (as opposed to a narrower conception of 'criminal justice system redesign') it is, we would argue a form of social innovation.

that ' . . . responsiveness to local needs does not necessitate local commissioning, as diversity can be recognised as part of commissioning at a larger scale . . .'⁹⁵. This presents several potential obstacles to JR. First, all models of JR have been data driven with in-depth local analysis providing an understanding of the needs of local offenders and communities. Given the national commissioning model and the relatively short timescales this is scheduled to take place over, such analysis seems unlikely to drive service provision, at least in the short term.

Secondly, such a commissioning model also raises issues about the extent to which 'localism' is recognised in the reforms. As part of their comprehensive review of the prison service in England (and, to some extent, Wales), *Do Better, Do Less*, the Commission on English Prisons Today⁹⁶ argued that the policy of localism allows the addressing of two issues simultaneously. According to the Commission, while the people of England feel their communities are increasingly disempowered⁹⁷, there is good evidence to show that justice functions are more efficiently delivered at the local level⁹⁸. It is argued that localising services and service providers also leads to an increase in trust⁹⁹ which is associated with a reduction of the proportion of the population who are incarcerated and, we might expect, a more effective series of interventions. The commission also argues co-operation between stakeholders is more likely to be achieved at a local, rather than national, level¹⁰⁰. Localisation is, therefore, an approach which will lead to more correctly aligned incentives as well as making it more likely interventions will be supported and be successful.

Finally, commissioning rehabilitation at a regional level and including an element of Payment by Results will result in lead contractors in each area being large

92. Allen (2007) see n.4, Fox and Albertson (2011) see n.65.

93. Ministry of Justice (2013) see n.85 p.26.

94. Ministry of Justice (2013) see n.85.

95. Ibid p.25.

96. Commission on English Prisons Today (2009) see n.37.

97. Watts, B. (2008) *What are Today's Social Evils?* York: Joseph Rowntree Foundation.

98. Mulgan, G. and Bury, F. (2006) *Double Devolution: The renewal of local government*, London: the Smith Institute; Local Government Information Unit (2008) *Getting to the heart of local accountability* consultation paper in response to Community Empowerment White Paper, London: Local Government Information Unit; Stern, V. and Allen, R. (2007) *Localism and criminal justice: Suggestions for a new balance between national and local decision-making* in Allen, R. and Stern, V. (ed.s) *Justice Reinvestment – A New Approach to Crime and Justice*, London: International Centre for Prison Studies.

99. Commission on English Prisons Today (2009) see n.37.

100. Ibid p. 51.

entities that are 'capable of bearing the financial and operational risks'¹⁰¹. The Justice Committee¹⁰² noted the squeeze that government policy puts on smaller local organisations in favour of larger commercial enterprises and commentators have noted the risk that payment by results models in the criminal justice system pose to small, particularly voluntary sector organisations¹⁰³. The Ministry of Justice¹⁰⁴ argues that it will take steps to ensure that smaller voluntary sector organisations are part of the commissioning arrangements it enters into and that their role is sustainable.

Conclusions

The challenge of JR is to look beyond the supposed solutions of previous years. 'Solutions' supposedly based on rigorous theory but the implementation of which have nevertheless seen prison populations grow and communities decline. The response however, is not to throw out economic theory — the economic dimension is key to JR — rather it is to draw on some new ideas (and go back to some very old ideas) in economics.

A broader view of economics recognises the limitations of the neo-liberal model as it is currently accepted; it is clear that society is not adequately represented by independent individuals considering their role in a market for crime. Other variables influence agents' decisions, for example, community resilience, social mores and the local built environment. Local resources — the way in which citizens and localities are embedded in public, private and voluntary sector networks and intangible assets such as relationships of trust and reciprocity — are important pillars of sustainable economic activity and allow us to build a theory of JR where the aim is to reduce the need for (and cost of) criminal justice through an increased emphasis on the efficient delivery of social justice. This must take place through a mixed economy of provision: the state, private sector organisations and the charitable sector all have roles to play. Recent policy provides some new opportunities to promote such a model.

101. Ministry of Justice (2013) see n.85 p.16).

102. Justice Committee (2009) see n.7.

103. Fox and Albertson (2011) see n.65.

104. Ministry of Justice (2013) see n.85.

Reviews

Book Review

Flying Blind : How the Justice System perpetuates crime and the Corrections Department fails to correct

By Roger Brooking

Publisher : ADAC (New Zealand) (2011)

ISBN: 918-0-473180-75-1

Price: \$40 (NZ)

Available at

<http://www.flyingblind.co.nz/>

Roger Brooking has been conducting alcohol and drug assessments on offenders for over 12 years. During that time he has interviewed hundreds and hundreds of people caught up in the criminal justice system in New Zealand. He has also carried out extensive research, using conventional methodology but also through numerous freedom of information requests to the Department of Corrections. Despite being kept at 'arms length' by the Department his knowledge, understanding and professional training means he is well placed to develop and articulate an analysis of the effectiveness of the system operating in New Zealand today. *Flying Blind* documents these issues in extraordinary detail. It provides a depressing picture of a system which, in his view, is more intent on 'punishment' than 'providing rehabilitation, treatment or support.' It describes the defects of the justice system — and the Corrections Department in particular — and charts the various approaches and failures of the system.

The headlines for New Zealand criminal justice present a

bleak picture: the country has one of the highest rates of imprisonment in the OECD outside of the USA, imprisoning at the rate of near 200 people per 100,000 of the population,¹ and a shocking 700 per 100,000 for Maori, who represent 15 per cent of New Zealand's population as a whole. Whilst the cost per prison place is \$91,000 (about 45,000 sterling) most of this expenditure is consumed by central overheads with only a small proportion being spent on front line services. Brooking is critical of a system that prioritises new and expensive prison building, extravagances like expensive staff uniforms and other expenditure which is not committed to 'service delivery' or tackling the very real problems that New Zealand faces. He cites the failure to tackle the damage caused by alcohol (a personal area of expertise) as the biggest failure. New Zealand's geographical position means that it is still (fortunately) removed from the main drug supply routes that bring huge quantities of heroin and cocaine based substances into developed countries. It does however have extensive alcohol problems that negate this natural advantage. It also has one of the highest re-offending rates of any developed country and offending 'careers' that exceed the norm with desistance rates that mean many offenders remain caught in the cycle of crime and poverty long after their European counterparts have given up criminal behaviour.

Inevitably it is the (indigenous) Maori who suffer the

most. Colonisation occurred late (mainly after 1850) and was for a long time focussed on trade of weapons and alcohol, whilst Westernisation (followed by urbanisation) occurred rapidly, displacing a culture and delivering social change at a rate not seen anywhere else in the world. To its credit, New Zealand has attempted to drive social integration and reform — it was the first country to give women universal suffrage (1893), and since the 1970's the 'Treaty of Waitangi' (1840) has had a special status in constitutional law, confirming civil rights for Maori (including land ownership) and enshrining the language within social systems — all school children are now taught rudimentary *Te Reo* which Olympic followers will have noted is part of the national anthem. Despite the apparent 'liberalism' and social enlightenment, society remains largely conservative and suffers from a significant social divide between rich and poor, and the inevitable consequence of this for social justice.² Whilst New Zealand criminal justice system faces the problems that all developed countries do — they are more endemic. This is all the more ironic given New Zealand's remarkably low rates of crime.

In any modern society, there are many factors which contribute to crime and the development of anti-social behaviour — such as parental conflict, alcohol and drug abuse, mental health problems, violence, psychological and sexual abuse. Poverty and other socio-economic factors also play a part.

1. <http://www.prisonstudies.org/info/worldbrief/>

2. *Household incomes in New Zealand: Trends in indicators of inequality and hardship 1982 to 2010*, Prepared by Bryan Perry, Ministry of Social Development, Wellington, July 2011

In *Flying Blind*, Brooking quotes Lord Bingham, a former chief Justice for Britain and Wales who describes the profile of a typical offender like this:

*He is usually male, often of low intelligence, and addicted to drugs or alcohol, frequently from an early age. His family history will often include parental conflict and separation; a lack of parental supervision; harsh or erratic discipline; and evidence of emotional, physical or sexual abuse. At school he will have achieved no qualification of any kind, and will probably have been aggressive and troublesome, often leading to his exclusion or truancy. The background will be one of poverty, poor housing, instability, association with delinquent peers and unemployment.*³

If this individual is also Maori his chances of success will be further worsened by participation in a strong gang culture, and a significant economic and governmental barriers to re-integration — unlike most of Europe there is no specific social housing obligations for the state for ex-offenders, and no provisions which limit excluding ex-offenders from employment.

In addition to these debilitating difficulties, Roger Brooking argues that the New Zealand Justice system then makes matters worse. He says that by failing to mandate dysfunctional offenders into treatment and rehabilitation programmes, the justice system creates a vicious cycle that perpetuates criminal offending.

Flying Blind documents three stages in the system where intervention could occur to break this cycle. The first stage is when offenders appear in court —

affecting approximately 120,000 New Zealanders every year. 80 per cent of this offending occurs under the influence of alcohol and drugs — according to the Law Commission which conducted a review of New Zealand's liquor legislation in 2010.⁴ But historically, judges have ordered only 5 per cent of these offenders to attend an alcohol and drug assessment or treatment as part of their sentence.

This also applies to the more than 30,000 people convicted of drink driving each year. Even though it is abundantly clear that alcohol is a contributing factor, judges order only 5 per cent of drink drivers to attend treatment as well. In the last two years, as a result of initiatives implemented under the National Government's *Drivers of Crime* strategy, the percentage of offenders mandated into treatment went up to 10 per cent.⁵ This is a step in the right direction but, given the size of the problem, it still only scratches the surface.

The second stage of the justice system where intervention could occur is when offenders are sent to prison. Each year more than 20,000 New Zealanders spend time in prison, the vast majority of them on remand. Those who end up in prison tend to have mental health problems as well as significant problems with substance abuse and addiction. However, very few are able to access treatment programs in prison. In the last four years, the National led government has doubled the availability of places in drug treatment units from 500 to 1000. But this increase still enables only 5 per cent of those in prison to attend alcohol or drug treatment.

Very few prisoners with mental health problems receive any help

either. Those with severe mental health disorders may be admitted to a psychiatric hospital, but those with mild to moderate issues are generally ignored. To illustrate this point, 45 per cent of prisoners (that's about 3,500) are estimated to have attention deficit hyperactivity disorder (ADHD) which often causes behavioural problems. Ritalin (or an equivalent) is the appropriate medication for this condition. But in 2012, only 17 prisoners in the whole country were prescribed ritalin or another medication for this disorder.⁶

The vast majority of prisoners also have problems with reading and writing. But the Department puts so many obstacles in the way of prisoners wanting to attend literacy training that in 2010, only 9 per cent of those who started a literacy program actually completed it.⁷

Some rehabilitation programmes do assist some prisoners avoid re-offending. But historically the number of prisoners able to attend these programmes has been so small that nothing the Department has ever done has made any difference. Approximately 24 per cent of prisoners are back inside within 12 months; and over 50 per cent return to prison within five years. For those under the age of 25, 70 per cent return within five years.

The third stage of the justice system where intervention could occur is when inmates come out of prison. In Canada, there are over 230 halfway homes funded by Canadian Corrections which enables 60 per cent of federal prisoners to find supportive accommodation on release.⁸ In New Zealand, there are only two halfway houses funded by

3. Tom Bingham, *The Sentence of the Court* in *The Business of Judging*, Oxford University press, 2000, p. 308.

4. *Alcohol In Our Lives: Curbing the Harm*, 2010, Law Commission, Wellington New Zealand: www.lawcom.govt.nz

5. *Addressing the Drivers of Crime*, Ministry of Justice website: www.justice.govt.nz

6. Data from a letter to the author by the Corrections Department in response to an Official Information request, February 2012.

7. Corrections Department Annual Report, 2009-2010, page 37: www.corrections.govt.nz

8. Amey Bell & Shelley Trevethan, *Community Residential Facilities in Canada: a descriptive profile of residents and facilities*, Research Branch, Correctional Service of Canada, June 2004, Executive Summary, p. 1.

Corrections which means less than 1 per cent of New Zealand prisoners are able to access this kind of support.

Brooking argues that there have been some disastrous consequences to the lack of commitment by the Corrections Department to rehabilitate prisoners or provide support on release. He cites two recent high profile cases of William Bell and Graeme Burton — both of whom committed murders soon after being released from prison.

Brooking points out that Bell and Burton both had significant drinking and drug problems prior to being sent to prison — but neither was required to attend treatment while incarcerated. Despite a statutory requirement to keep the Parole Board informed, the Corrections Department also failed to provide the board with alcohol and drug assessments on them prior to their release. As a result, the board was not well-informed about the severity of their addictions or the role this had played in the violent offending for which they were in prison. Bell subsequently killed three people at the Panmure RSA under the combined influence of alcohol, cannabis and methamphetamine. When Burton was released on parole he spent the next six months beating up drug dealers in the Wellington area to obtain methamphetamine. He shot and killed Karl Kuchenbecker two days after assaulting yet another dealer.

In addition to recommending increased rehabilitation in prison and more halfway houses in the community, Brooking also suggests that penal policies need to be adopted which will cut the prison population in half. He points to Finland's success at reducing its

rate of imprisonment from over 180 prisoners per 100,000 of population in 1950 to its current rate of about 60 per 100,000 — a drop of over 70 per cent.⁹ While Finland's rate of imprisonment has gone down dramatically, in the last 50 years New Zealand's rate has gone up by a similar amount. It now stands just under 200 per 100,000 giving New Zealand the second highest rate of imprisonment in a Western Country.

Professor John Pratt of Wellington's Victoria University says the dramatic increase in New Zealand's prison population has been driven by penal populism¹⁰ — a process whereby the two major political parties compete with each other to be tough on crime. The right wing pressure group known as the *Sensible Sentencing Trust* has been a catalyst in this process; for over ten years now; its principle sponsor Garth McVicar has consistently called for tougher bail conditions and longer sentences for just about everyone sent to prison.¹¹

Brooking argues that this 'lock 'em up' approach to dealing with crime is a financial disaster. He describes the justice sector as an economic black hole which sucks up resources. He points out that crime costs the country over \$12 billion a year — of which \$5 billion is incurred by the taxpayer in court, police and prison costs and crime related health costs. In 2011, Finance Minister Bill English claimed that New Zealand was facing the biggest budget deficit in its history; as the fastest-growing Department in the public sector, Corrections was leading the charge into this financial black hole. At the same time Bill English was one of the few centrist

politicians to call for an alternative approach to this spiral of increasing use of imprisonment and apparent failure of the criminal justice system.

Despite these high level hopes for reform, and because of further financial constraints, the Government has been unwilling to provide additional funding for rehabilitation programmes. But Brooking says an additional \$350 million could be raised quite easily by adopting the New Zealand Law Commission's recommendation to impose minimum prices and increased levies on alcohol. *Flying Blind* highlights the point that alcohol causes more death and social destruction than all illegal drugs combined and endorses other key recommendations made by the Law Commission to reduce the damage it causes. These include reducing the availability of alcohol — by banning sales from supermarkets and dairies; reducing its legitimacy as a consumer commodity — by making it illegal for liquor companies to advertise on TV and radio; and reducing the destructive impact on teenagers by raising the legal age of purchase from 18 to 20.

In addition to reform of our liquor laws and increased rehabilitation, *Flying Blind* also highlights the need for early intervention strategies for vulnerable individuals and families. Since most of those who end up in prison come from dysfunctional family backgrounds, Government strategies need to identify individuals from at-risk families — and implement supportive programmes. When we don't, these psychologically damaged individuals frequently end up in court or in prison. If the Justice system also fails to intervene, it

9. About Time — Turning people away from a life of crime and reducing reoffending, Department of Corrections, Wellington, 2001, p 12.

10. John Pratt and Marie Clark, Penal Populism in New Zealand, *Punishment and Society*, 7, 3, 2005, pp. 303-322.

11. Sensible Sentencing Trust: www.en.wikipedia.org/wiki/Sensible_Sentencing_Trust

creates a vicious cycle — one which locks offenders into the system and perpetuates their criminal offending.

And yet successive Corrections Ministers have repeatedly claimed that rehabilitation and reintegration are a Government priority. In 2012, the Government even set the justice sector a goal of reducing reoffending by 25 per cent. As part of its contribution to that goal, the Corrections Department announced that some old prisons would be closed freeing up \$65 million to put into rehabilitation — at \$16 million a year over the next four years. Ten years ago the Department claimed that a brand new \$40 million system called Integrated Offender Management (IOMS) would also reduce reoffending by 25 per cent. In 2007, Professor Greg Newbold described IOMS as ‘a large and expensive failure... another wreck on the scrapheap of abandoned fads of criminal rehabilitation.’¹²

Brooking notes that real priorities require much greater financial commitment. *Flying Blind* provides a number of examples of Government priorities where large amounts of funding have been applied. One of them is to rebuild Christchurch — for which the Government has so far allocated about \$10 billion. Now that’s a priority. But we forget there’s also an ‘earthquake of crime’ which costs the New Zealand taxpayer \$5 billion each year. This is not a one-off earthquake; the earthquake of crime shakes the country year after year. \$16 million is just drop in the bucket — thrown into the justice sector black hole. The Government needs to get serious; the \$350 million that increased levies on alcohol would

raise is a serious figure. It would provide early intervention programs, rehabilitation in prison and halfway houses in the community.

But the National Government has other priorities — it plans to spend \$900 million building a brand new prison at Wiri. Brooking concludes that:

‘By failing to intervene, the Justice system exacerbates the underlying cycles of poverty, poor education, parental conflict, drug and alcohol abuse and physical and sexual abuse which sets so many people down the path towards crime in the first place. This is a systemic failure of monumental proportions with serious ramifications for the safety of the community. It makes a mockery of statements by former Corrections Minister Judith Collins that ‘rehabilitation and reintegration are key government priorities’. They’re not — and they never have been.’¹³

Flying blind relies extensively on newspaper reports and official information requests from the author; despite this it provides a valuable insight into a criminal justice system that has huge potential (and in some quarters a desire) for change, yet seems to lack the impetus or effectiveness to do this. Easy to read and poignant, *Flying Blind* is topical and of great value to those working in this sector both in and outside of New Zealand.

Steve Hall is a Fulbright fellow and former Prison Governor in the England and Wales Prison Service now working as the Prison Director at Mount Eden Corrections Facility in Auckland, New Zealand.

Book Review

The Sage Handbook of Punishment and Society

Edited by Jonathan Simon and Richard Sparks

Publisher: Sage (2013)

ISBN: 978-1-84860-675-3 (hardback)

Price: £95.00 (hardback)

The ‘Handbook’ currently appears to be the flavour of the month with the publishing world, with one of the newest additions being *The Sage Handbook of Punishment and Society*. Perhaps recognising this, the book opens with the question: ‘Does the academy need another Handbook?’ (p. 1). The editors, Jonathan Simon and Richard Sparks, proceed to answer this, explaining how this particular one is worthwhile because since the 1980s the subject matter of punishment and society has ‘come into sufficient focus and achieved sufficient definition and discursive shape to provide a rallying point for our interest and concerns’ (p. 1). Whether this reviewer agrees, is the point of this review.

The book is 510 pages long and made up of 22 chapters divided into four parts: punishment and social theory; mass imprisonment and inequality; modes of punishment; and, new contexts. The contributor list reads like a modern day who’s who of the significant players in the penology world including, in addition to the editors: David Garland, John Pratt, Nicola Lacey, Alison Liebling, Ben Crewe, Fergus McNeil, Shadd Maruna, John Muncie, Barry Goldson, Pat O’Malley, Dirk van Zyl Smith and Kieran McEvoy, to name but a few. For this reason alone, although the price tag is rather expensive at £95, this is an excellent collection of the work of these notable scholars.

12. \$40m to stop crims reoffending ‘a failure’, New Zealand Herald, Dec 6, 2007.

13. Roger Brooking, *Flying Blind – How the justice system perpetuates crime and the Corrections department fails to correct*, Wellington 2011, p 232.

While there are many interesting chapters in the book (more on this to follow), one of the most useful is the Introduction. This has been written as a true introduction to the punishment and society field, detailing the emergence of it as an academic enquiry and importantly includes all of the important seminal work in this endeavour. The chapter works as a reminder for those who are fully conversant in the current academic literature and as a 'nutshells' guide to those who aren't. I would include myself in the latter group, as I spent most of the chapter writing down references for articles and books which I thought sounded both interesting and important for me to read. My 'to-read' list has hence got much longer! I would therefore highly recommend this as a standalone chapter for all undergraduate criminology students and all those who have an interest in punishment and society but perhaps don't feel that they are fully initiated in the academic literature.

As previously mentioned the book is divided into four parts; commencing with seven chapters under the umbrella of punishment and social theory. The section begins with a chapter on punishment and social solidarity, by David Garland, which explains and analyses Emile Durkheim's theory of punishment and social solidarity. This argues that punishment should be shaped not by the demands of crime control, but by collective values and social relationships. In short punishment is a moral, rather than an instrumental institution and thus functions to enhance solidarity. This, Garland explains, has supplied the foundations for the scholarship of punishment and society (p. 24). The chapter does

not accept the theory without question however, it fully analyses it and also looks at solidarity in modern sociology. Another interesting chapter is that by Jonathan Simon, who in Chapter 3 writes about the use of punishment and particularly the use of imprisonment as political technology. By this he means a 'political technology of the body . . . a craft, system, or method for organising bodies to produce specific effects that have a political value or purpose' (p. 62). The chapter focuses on the two seminal books, *Discipline and Punish*¹ and *The Prison and the Factory*² and suggests how they could be applied to later phases of penal evolution. In short Simon advocates the importance of these works and explains how they are just as important today as when they were first published. Other chapters in this section look at punishment as a tool of class control; punishment and the civilizing process and punishment and risk.

Part two of the book, which looks at mass imprisonment and inequality, opens with a chapter dedicated to punishment and inequality. As the authors, Christopher Muller and Christopher Wildeman, state, it has long been known that 'social inequality in the world outside the prison strongly predicts the distribution of inmates inside it' (p.169). However, instead of focusing on how social inequalities are evident in the prison population, the chapter looks at how punishment itself might intensify these inequalities; interestingly, looking at both negative and positive aspects of mass imprisonment in America. This is then followed by another interesting article on gender and punishment, authored by Mary

Bosworth and Emma Kaufman. Rightly identifying gender as a significantly under researched area in this field, the chapter explains not only why gender matters in punishment and society, but also how gender theory can be used to inform critical accounts of punishment. In short this should compel 'criminologists to look differently at the relationship between the purposes and the experiences of punishment' (p. 199). Other chapters in this section include the carceral state and the politics of punishment; the social psychology of mass imprisonment; and, punishment (neo) liberalism and social democracy.

The penultimate part of the book, modes of imprisonment, was for me the most interesting. While the other sections of the book were compelling, my preference in reading is often knowledge about what is happening at a practical level and in this respect, this section of the book did not disappoint. The opening chapter by Alison Lieblich and Ben Crewe looks at the shifting moral foundations of prison management; which for many readers of this journal would be of specific interest. Based on empirical research, the chapter focuses and reflects on the professional ideologies of past and present senior managers working in prisons. From comprehensive interviews and a full analysis of these, the authors conclude by arguing that prison managers should be inserted into the field of prison sociology (p. 302). The other chapters in this section show similar in-depth analysis and cover the punishment modes of capital punishment, community penalties, youth justice, restorative justice and financial sanctions.

Finally, part four looks to the future by looking at new contexts.

1. Foucault, M. (1977) *Discipline and punish: The birth of the prison* London: Allen Lane.

2. Melossi, D. and Pavarini, M. (1981) *The prison and the factory: Origins of the Penitentiary system* London: Macmillan.

In particular it focuses on punishment and human rights (although as acknowledged by the author Dirk van Zyl Smit, this is not a new phenomenon); punishment and migration; and interestingly, and perhaps in conflict with the rest of the book: control without punishment. This latter chapter refers to the use of coercion with terrorists and the use of control in fighting the 'war against terror'.

As I hope I have summed up this is an engaging, well written book which will be useful to academics, policy makers, practitioners and those with a general interest in punishment and society. I don't think that it is an exaggeration to describe it as a 'bible' of punishment and society in that it collates and analyses past and present research, but also looks towards the future. In short, and in answering the initial necessity question, is this handbook needed, the answer is resoundingly yes.

Dr Karen Harrison, University of Hull.

Book Review

Radical: My Journey from Islamist Extremism to a Democratic Awakening

By Maajid Nawaz

Publisher: W H Allen (2012)

ISBN: 978 0753540763

(paperback)

Price: £12.99 (paperback)

This is a moving and fascinating book. It describes the turbulent life of a young, hip hop loving Essex boy, whose maternal grandparents were immigrants from North West Pakistan, as he became persuaded by Islamist ideology. His father grew up in Pakistan, but moved to the UK when he married Maajid's somewhat Westernised mother. Maajid's urge to civil action, fired

by his experiences of racism, violence and exclusion throughout his school years, take him into the belly of extremist plotting, in England's Universities, in Egypt and in Pakistan. He gradually becomes disillusioned with the key characters, and — paradoxically, in a brutal Egyptian prison — wiser about Islam, and he eventually departs from the organisation he is asked to lead, only to find his urge for action more persuasively satisfied by a fight against extremism and for democracy. His absorbing story shows how England is creating its own terrorists, in its failing schools and suburbs, and yet the account provides hope for ground-up movements for justice. It is a book about personal transformation, of both the dangerous and hopeful kind, and its conclusion is that being human is the most powerful weapon against violent extremism.

There are powerful moments throughout the book that, weaved together, make up the narrative of extremism: 'I will never stand alone again', Maajid resolves, tearfully, after being excluded from a football game on the grounds of race at school; his bruising encounters with the police; coming across older, authoritative, resistant role models, and the appeal of these self-affirming, defiant identities; the discovery of a stance that creates fear in others. He discovers how to move from experiencing life as a target: where your skin goes, fear follows — to being able to target others. Carry a rucksack. Adopt Islamism: what he describes as a politicised and distorted version of Islam. It does what years of knife-fights could not do:

I caught a glimpse of its power, and how it was capable of transforming my standing at a stroke ... I wanted a dose of that courage (p. 78) ... the rising strength of Islamism and Jihadism meant for the first

time that you didn't mess with Muslims. With that knowledge, I could walk the streets with confidence (p. 109).

His political energy was channelled — from hip hop and race issues to 'something more global': a version of Islam where the political content was more prominent than the theological:

This globalisation of our grievance was what many would later come to know as the powerful Islamist narrative (p. 89).

To replace his confused and incomplete racial identity with a religious identity worked: the vacuum was filled. Loyalty and brotherhood were precious gifts. But he was united to others though anger and a sense of grievance. European Muslims were 'being radicalised by events in Bosnia', by Western hesitation: Maajid and his peers recognised the same vacillation they had witnessed by the police when the wrong young people were in trouble. Their fight back had startling effects:

Unlike the student protests in the 1960s, by using religion and multiculturalism as a cover, we brought an entirely foreign lexicon to the table. We knowingly presented political demands disguised as religion and multiculturalism, and deliberately labelled any objection to our demands as racism and bigotry. Even worse, we did this to the very generation who had been socialist sympathisers in their youth, people sympathetic to charges of racism, who were now in middle-career management posts ... It is no wonder then that the authorities were unprepared to deal with politicised religion as ideological agitation, and felt racist if they tried to stop us (p. 114-5).

This was the 1990s ('the decade of Islamism') but is highly

recognisable in some contemporary prison dynamics. Radicalising others was easy — here was a message that declared a presence, demanding respect. Fearless religious zeal intimidated those who had until now claimed the upper hand.

Maajid calls his activism, in both directions, ‘the romanticism of struggle’. Throughout both his extremist and his later democratic years, he was led by his heart, not his head, his radical idealism in the end being disappointed by flaws in the politics, strategy, tactics and personalities or characters of his radical organisation, as well as in their account of Islam. It took him five years to undo the emotional, intellectual, political and social commitments he had made, and he did the unpicking without guidance. He was ‘reconnected with life and humanity’ via Amnesty International, amongst others: they controversially supported him whilst he was in prison in Egypt. He ‘grew up’, read different books, established different networks, and for the first time, he really studied Islam, ‘from its sources’. He found no support for the ideology he had followed. He had to grapple with moral complexity afresh; with Islamophobia as well as Islamism: they had much in common. The fire ignited by injustice within him had to find a better ‘counter-narrative’. In the end, he came to believe that knowing cultures better, through conversation, art, literature, music, and respectful dialogue, and understanding religious texts more clearly, could hold out hope to a generation seeking a better political and social order.

The characters in this account all have their flaws, but the narrative is compelling, urgent, and deeply insightful.

Professor Alison Liebling,
University of Cambridge, Institute of Criminology.

Book Review

Professional and Therapeutic Boundaries in Forensic Mental Health Practice

Edited by Anne Aiyegbusi and Gillian Kelly.

Publisher: Jessica Kingsley Publishers (2012)

ISBN: 978-1-84905-139-2 (paperback)

Price: £29.99 (paperback)

The Therapeutic Community Under Fire

Edited by John Adlam, Anne Aiyegbusi, Pam Kleinot, Anna Motz and Christopher Scanlon

Publisher: Jessica Kingsley Publishers (2012)

ISBN: 978-1-84905-258-0 (paperback)

Price: £29.99 (paperback)

These two books, with authors who have contributed to both titles, focus on the difficulties arising from working with forensic mental health patients. *Professional and Therapeutic Boundaries in Forensic Mental Health Practice*, as the title suggests, takes as its theme, boundary issues when engaging with mental health patients while *The Therapeutic Community Under Fire* is a collection of papers from a series of seminars, convened between 2005 and 2011, and published to coincide with the 20th anniversary of the founding of the International Association of Forensic Psychotherapy in 1991. As such, the predominant paradigm underpinning many chapters in both of these publications is psychoanalytic/psychodynamic psychotherapy.

This means that unless one is working within a therapeutically focused unit with a treatment model that contains elements of psychoanalytic/psychodynamic thinking, there is probably little of direct relevance in these two books, particularly for the majority of HMPS staff working with

prisoners in a mainstream custodial environment. However, there are concepts contained within chapters in each of these books that can be applied within the wider prison service, whether one is a ‘cognitive-behavioural’ psychologist, an operational manager or, in some respects, a NOMS policy lead. For the predominant question posed is — what is the impact upon staff of working with disturbed, difficult, potential dangerous and vulnerable patients? How does working with disruptive and demanding patients/prisoners, whose behaviour causes staff so much concern, affect how staff operate? These books can therefore be read alongside the excellent recently published Department of Health/Ministry of Justice practitioners guide to working with personality disordered offenders (which is free to download).

It could be argued that the effect upon staff of working with prisoners who are particularly demanding and challenging is a matter which the Prison Service has insufficiently considered. Yes, we can have our professional standards unit which successfully prosecutes staff who have engaged in inappropriate, corrupt actions and who are guilty of ‘misconduct in public office’, but have we adequately enquired into why such staff breach security regulations? Is it simply for financial gain? Or, for personal gratifications derived from working relationships that have become too close and which are occasionally of a sexual nature? Is this just staff weakness or is there something about the nature of the containing environment that staff work in and the personalities of the prisoners who staff are often in daily contact with, which makes certain staff more susceptible than others to increased pressure, persuasion or even attention (especially if they

are encountering struggles in their personal life)? And, if so, is there anything the Prison Service can do to better assist such staff? A read of chapters in these books might provide some clues and assist in answering this question.

Professional and Therapeutic Boundaries in Forensic Mental Health Practice opens with a chapter on Relationships, Boundaries and Mental Health with an identification of relevant risk factors for those working in a forensic mental health setting and a listing of some institutional factors that contribute to an enhanced risk of boundary violations. Other chapters of potential interest include: the patient's experience of professional abuse in the psychological therapies; boundaries in forensic mental health nursing; boundary violations in medium security, with young people, when working with those who have learning disabilities or when interacting with those who have been

diagnosed with a severe personality disorder.

The Therapeutic Milieu Under Fire takes some of the thinking within Professional and Therapeutic Boundaries in Forensic Mental Health Practice and in addition to clinical chapters, explores further the organisational dynamics arising from engaging with forensic mental health patients. The editors acknowledge that the book is also set in the context of the recent closure of some notable mental health facilities: Henderson Hospital TC, Main House TC, Webb House TC, the Cassel Hospital Families Service, the Arbours Crisis Centre and the Pines Centre.

Chapters of potential specific interest to NOMS/HMPS members of staff include 'Complaints as a Tool for Bullying'; 'Your Friends and Neighbours: Professional Boundary Violations — A Review of Perpetrator Typologies and Impact

on Clients'; 'Annihilating The Other: Forensic Aspects of Organisational Change' (the closure of the Henderson Hospital); 'What Makes a Secure Setting Secure' (from an interpersonal relationships/dynamics perspective) and, 'The Traumatized-Organised-In-The-Mind: Opening Up Space for Difficult Conversations in Difficult Places'.

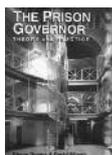
For the majority of staff working in HMPS/NOMS these are books with an unfamiliar style, language and approach. Nevertheless, there are benefits to be obtained from 'dipping into and drawing pointers from' particular chapters, as opposed to being able to directly translate and immediately put into practice specific concepts and learning contained with individual book chapters.

Michael Brookes is Director of Therapeutic Communities at HMP Grendon and visiting Professor at Birmingham City University.



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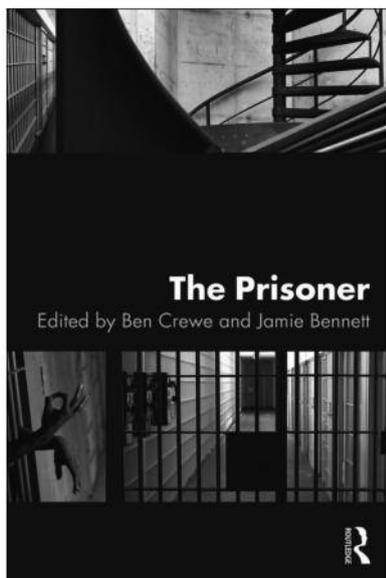
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The editor is responsible for the style and content of each edition, and for managing production and the Journal's budget. The editor is supported by an editorial board — a body of volunteers all of whom have worked for the Prison Service in various capacities. The editorial board considers all articles submitted and decides the outline and composition of each edition, although the editor retains an over-riding discretion in deciding which articles are published and their precise length and language.

From May 2011 each edition is available electronically from the website of the Centre for Crime and Justice Studies. This is available at <http://www.crimeandjustice.org.uk/psj.html>

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Six editions of the Journal, printed at HMP Leyhill, are published each year with a circulation of approximately 6,500 per edition. The editor welcomes articles which should be up to c.4,000 words and submitted by email to **jamie.bennett@hmps.gsi.gov.uk** or as hard copy and on disk to *Prison Service Journal*, c/o Print Shop Manager, HMP Leyhill, Wotton-under-Edge, Gloucestershire, GL12 8HL. All other correspondence may also be sent to the Editor at this address or to **jamie.bennett@hmps.gsi.gov.uk**.

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