

Human Rights, Decency and Social Exclusion

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I would like to start with an obvious reality: prison can be a negative and a terrible place. After the right to life, we are, after all, in the business of taking away the most fundamental of liberties and so because of that I do not need any persuading, in so far as is consistent with the deprivation of liberty, that prisoners' human rights should be protected. But prison should do much more than that because prison can, occasionally and more often than it used to, restore human rights to those who, for whatever reason, are effectively denied the broader rights that we all take for granted including education, work and ultimately family life.

Let me start with some basics. The prison population this morning was 70,108. My staff now tell me on a morning if the prison population has *not* reached a new record. It has reached a new record almost every day for some time now. Less than ten years ago at the end of 1992 the prison population was 40,700 and most experts at that time, in the wave of optimism following the Woolf report on the 1990 prison riots, believed the population was set to fall, not grow. I became very troubled towards the end of last year about the rise in the population and, particularly, in the rise in the number of women prisoners which reached 4,000 for the first time. As the population began to fall, as it always does before Christmas when the courts are not sitting, I was grateful for the reassurance from my statisticians in the Home Office that the population would not increase from January and would not begin to increase until later in the spring.

In fact since 1 January the population has grown by 4,000: the use of remand has increased, the use of custodial sentencing for all offences has increased, and the length of custodial sentences has increased. Nobody knows why. According to NACRO we now imprison a greater proportion of our population than any country in Europe, having over-taken Portugal in the last few weeks as the leader of that unfortunate table.

Prison and human rights conflicts

Imprisonment, whatever number we lock up, inevitably presents a series of human rights conflicts. Let me just give three examples. First of all, and most

basically, by failing to deprive prisoners of their liberty we would be infringing the rights of many members of the public including, in the most serious cases, the right to life for those who would be in danger from the most dangerous prisoners. Secondly, in prison today and every day I will have some hundreds of prisoners whose privacy will be invaded by keeping them under constant sometimes continuous supervision to try to stop them from killing themselves. We are, by any measure, invading their right to privacy but we are trying to retain their right to life.

A third example, and a painful and personal one, concerns the catastrophe of nearly two years ago at Feltham when a young Asian boy called Zahid Mubarek was murdered by his psychopathic and racist cellmate. The failures which led up to that murder were very many but if, on the wing on which his murderer had lived, we had routinely read all the letters the murderer wrote and received, then the wing staff would have known that they had a very serious and dangerous racist on their hands. In fact we no longer do that. When I joined the Service we read every letter incoming and outgoing to every prisoner and censored them. We now just look at a sample of letters. But that development in human rights in respecting the privacy of mail was one reason, not the only reason by any means, but one reason which led to our failing to keep someone alive and led to an appalling murder.

So protecting human rights in prison can sometimes require a very delicate balance. My view is that the incorporation of the European Convention on Human Rights into English law helps to ensure that that delicate balance is maintained and I welcome the Act unequivocally. We will be and are a better Prison Service while our rules and regulations can be routinely challenged at court — and since the Act became part of English law, applications for judicial review have, not surprisingly, doubled. Some actions have already been won by prisoners: for example those relating to the frequency of parole hearings. More will be won by prisoners in the future not least because the Court is view of what is proper under the Act will change over time.

On the other hand some judicial reviews have supported our stance on some important issues; most controversially perhaps our ability to add days onto a prisoner's sentence in response to unacceptable

behaviour. What is important is that prisoners can use the Act to challenge us — it would be a very unhealthy Prison Service indeed, as many around the world are, if that freedom was not allowed. All societies accept that the deprivation of liberty of a minority of people is necessary to protect the rights of a majority. We can argue, as I would, that we imprison too many in this country including some who pose very little threat to the rights of others — but that is a matter for the courts. However many people are sent into custody this evening or tomorrow we have to take them all. There are no waiting lists — they all have to be absorbed.

Purpose of imprisonment

For those who come into custody prison can have three roles. First it can deter. Most of us in truth regulate our behaviour in part because of the threat of sanctions, the most dramatic of which is imprisonment. Although, interestingly, there is no evidence to sustain the often argued theory that more austere or impoverished prisons act as an additional deterrent. A second role of prison is to provide retribution. Victims and society want to see people punished for wrongdoing. When punishments are seen to be inadequate public anger soon wells up; although general research shows a surprising conclusion that when members of the public are given details of particular cases the sentences they would use if they were given a choice, would be lower or less harsh than those used by sentencers.

But a Prison Service which only dealt with deterrence and retribution would not be a service in which I wanted to work and neither would it be a service, I am glad to say, in which the overwhelming majority of my staff would want to work in. People do not grow up wanting to join the Prison Service and if they did I doubt very much whether I would want them. Most of the 44,000 people who work in the Prison Service in England and Wales join for all sorts of curious reasons. In my case, 21 years ago, it was because I was fascinated by a documentary about Strangeways prison made for the BBC by Rex Bloomstein. When I saw an advert for assistant governors to join the Prison Service I had no intention of applying — I was enjoying a career in the NHS but, lured by a promise of a visit to a prison, I went along to Lincoln prison in 1981 and was hooked. I joined, as most people join the Prison Service, not to deter, not to inflict retribution, important as they are, but because of a belief which I held 20 years ago and which I hold passionately today and with more optimism today, that prison can also rehabilitate.

Obstacles to rehabilitation

Racism

I should say from the outset that the obstacles to

us doing that at the moment are numerous. Let me mention just four. First of all we have a real problem with race. Twenty per cent of prisoners in England and Wales are black or Asian and there is a wealth of evidence over many years that they have suffered discrimination in the Prison Service. A whole wealth of impressive policies have not translated themselves into the fair and equal treatment of black or Asian prisoners on the landings. And the institutional racism of the Service cannot be denied. No-one on my Board of Directors is black, none of my area managers or heads of policy group throughout the Prison Service is black. I have 138 prison governors. One of them is Asian.

There are some promising signs, particularly recently in recruitment and promotion. In recruitment for example about eight per cent of new recruits have been black or Asian over the past two years. And for the first time those promoted within the Service from a black or Asian background are outstripping their representation in the Service. And I know and am encouraged that staff who wondered about our commitment to putting things right in the Service have started to take us seriously, and take me seriously, as we have begun to sack staff for unacceptable racist behaviour: at prison officer training school last year, at Brixton prison last year, at Feltham and at Frankland prison, we have stepped in to sack staff when they have behaved unacceptably and we have forced the resignation of many others.

We remain (and arguably we are breaching a human right in doing this) unique as the only organisation that I know of in the public or private sector, which has now made it clear that membership of racist groups like the BNP, National Front, Combat 18 is on its own punishable by dismissal. Everyone who joins the Prison Service now has to sign an agreement that they never have been and never will become a member of one of those organisations. But despite these improvements we have much more to do yet before I can be confident that we are giving black and Asian prisoners a fair deal.

Overcrowding

The second area of real worry is the one I have already mentioned: overcrowding. Seventy thousand prisoners in custody, 4,000 more than a few weeks ago. Overcrowding has, as Lord Woolf has called it, become the AIDS virus of the Prison Service. And the reality of over-crowding is this: this morning 13,000 men were sharing a cell built for one. And in that cell today they will have to eat together in that cell, they will have to defecate in front of one another. By any measure that is gross. And there is no sign of it disappearing. The population crisis also has a massive and negative effect on our attempts to make prisons decent places. It disrupts education and other courses, it disrupts our attempts to keep people close to home as we try to fill every bed. We are moving people from one prison to

another disrupting everything that is practical and constructive.

We have tried for many years to increase what is called purposeful activity, activities such as education, PE, social or legal visits — things which might contribute usefully and are certainly helpful to the prisoner — and I think we have done pretty well. Since 1993 the numbers of purposeful hours of activity delivered each year have risen by 23 million hours a year. Every single bit of that has been absorbed by the increasing denominator and the amount of purposeful activity per prisoner over that period has risen by about ten minutes simply because the population has overwhelmed, or kept pace at least with, all our efforts to make prison a more constructive and decent place.

Mentally ill prisoners

Thirdly we have a grave problem with the mentally ill. Since the development of care in the community in the late 1980s the proportion of my population who show signs of mental illness has risen seven-fold. For them care in the community has become care in custody. Last year I did the BBC's *Back to the Floor* programme and I returned to Parkhurst to be a prison officer for a week. During the week I was asked to search a cell in the prison hospital where I met a wretched man who had been causing a great deal of distress to two young female members of staff. He had been abusing them and threatening them and causing real anxiety and there was some belief that he might have secreted some sort of blade in his cell. Before going into his room I talked to him. He had been waiting for a bed at Rampton for six months having been sectioned under the Mental Health Act. In that time his place on the waiting list for Rampton had fallen from number three to number six and there was little sign of him going.

When I searched his cell I found that this was a man who had taken pictures of page three girls and put them on every wall and had also cut out from the newspapers all those tiny lingerie adverts, anything with a female figure, and stuck them on his wall too. But he had not used glue, he had used his semen. And this was a man we were trying to care for at Parkhurst prison, who six months previously had been found to require care in a psychiatric hospital. At any one time I have about 300 prisoners who require secure psychiatric care and the NHS cannot take them. But I do have what I see as the cavalry coming over the hill in the form of 300 psychiatric nurses from the NHS coming into prison hospitals to offer in-reach services to those who are ill. But the problem is near overwhelming. Quite rightly we cannot medicate prisoners against their will — and God forbid if that were ever to happen — but some of the mentally ill for whom we care will not co-operate and will not take their medication, leaving medical officers and nurses in an impossible position.

Suicide

And fourthly, and related to my anxieties about mental illness, is the scourge of suicide. In my first year in this job there were 91 deaths in custody; last year there were 72 but believe me 72 is still a huge number. Seventy-two times a year I am told that someone else has managed to kill themselves. Although the rate is falling relative to the increasing population, the numbers are still quite appalling. Sometimes it has to be said, that those deaths occur because we fail: we fail to identify those who might be actively suicidal, we fail properly to care for them. We have trained, or I should say the Samaritans, a body about whom I cannot speak too highly, have trained thousands of prisoners to act as Samaritans in prisons, 'listeners' we call them. But sometimes we do not get the help to the right prisoner in time. Suicide is sometimes the end of a desperately sad road for an individual.

Very recently I spent a Saturday morning trying to console a particularly distressed prison governor who had just had a second suicide in a number of weeks. The young victim concerned had been in custody for some months but before being in custody and since the age of about three he had been in care. While in care he had, apparently, been sexually abused. He had no contact with his parents, his father had not seen him for many years, his mother was a psychiatric in-patient and some weeks after his tragic death his mother was still not able to comprehend what had happened. A few days before he was due to leave one of our institutions his social worker came to visit him to tell him that he could not go back into care. Two days before he was due to be released he came to see prison officers and asked if he could stay. The prison officers did all the right things, knew he was distressed, put him on a watch, he was watched every 15 minutes, but during the night, immediately after one 15 minute observation he hanged himself.

That is what we inherited in this and similar cases and that is what we will continue to inherit unless we get a grip on the people in prison who should not be there. There is simply nothing more important to the Prison Service, to my governors or to me than keeping people alive. And all my governors know that this year and next year I will put a much greater premium on reducing deaths in custody than in reducing escapes. But the burdens facing us are immense.

Reasons for optimism

So why, you might ask, am I so optimistic? Well I am optimistic because we are getting a grip on mental illness. Suicides, while still horrendous in number, are at last beginning to fall and we are making remarkable progress in some other areas; let me mention three of them. First of all, we have stolen from the Canadians, who first developed them, things called offender behaviour programmes. These programmes address the

cognitive skills of offenders, particularly young men, and teach them to think less impetuously. They are expensive: they have to be very intensive. We have to have psychologists or equivalently qualified staff as treatment managers and they cost me a lot of money but there is an increasing evidence that they work by getting prisoners to think through the consequences of their actions (and you should know just how impetuous such a lot of offending is).

Reconviction evidence on people who have been released having completed these courses is now showing a small but very significant reduction in re-offending. Particular forms of these courses for sex-offenders are also proving to be very encouraging. For sex-offenders they address the twisted thinking which lies behind a great deal of sexual offending, for example the belief held by some paedophiles that a child can consent to sex, or can enjoy sex. By addressing and changing that twisted thinking we are making some reduction in the dangerousness of people when we have to release them.

Secondly, drugs. I am forever told by very many people that prisons are of course, awash with drugs. Well they certainly used to be but over the last three or four years, on the back of some very significant investment that I have been fortunate to have as Director General, we have hugely improved security in visits to stop drugs coming into prisons. But most importantly of all, as well as introducing detox into every local prison, we have spent about £75 million on drug treatment programmes. The result of that has been over the last three or four years the number of those abusing drugs in prison has more than halved, from about 28 per cent to about 12 per cent currently. It may be that we cannot get that down much further. While we continue to have visits which are reasonable and civilised, where a man can embrace his spouse or partner or have his child on his knee, then drugs are still going to come through that route. That may be the price we have to pay for trying to keep visits as civilised as they are at the moment. I for one think it is probably a price worth paying.

Thirdly, and the area about which I think I feel most passionately, I think we are doing some remarkable things with education. A very worrying proportion of young people in prison have been permanently excluded from school. At some establishments that figure is more than 75 per cent. At Stoke Heath in Staffordshire, 11 per cent of the boys there have never been to school beyond primary school and 78 per cent never beyond the age of 13. According to a poll that David Ramsbotham took at Feltham last year, the figure at Feltham might be nearer to 90 per cent. So when I hear, as I frequently do, that prison disrupts education, I wonder what that means because so many of our people have not had a chance in education. Three quarters of people in my custody, because of their low levels in literacy and numeracy, are effectively unemployable and if we continue to send

them home in that position then there is no doubt what will happen to them: they are going to go straight back to crime. But let me just cheer you up with three real examples of young men who left the Prison Service this summer.

A boy called Carl arrived in custody two years ago with the basic skills of an eight year old: last summer before leaving us he got GCSEs in maths and English. Peter, permanently excluded from school at the age of 14 left this summer with qualifications in English, maths, cookery, history and parent-craft, the first qualifications he had ever obtained, and he is now in a joinery apprenticeship and doing well. Tony, excluded from school at the age of 13, arrived not able to read or write: he is expected to get qualifications in literacy, numeracy, IT and bricklaying. And last summer, using the IT and literacy skills which he had to go to prison to get, he wrote a book for his nephew which won the Puffin book of the year award at the Koestler awards. We changed his life and that of many others like him.

We still need to do a great deal more in education, in getting people off drugs, and in other areas. In particular we need to make massive strides in getting prisoners into employment. But with the benefit of some serious investment I have enjoyed as Director General this Service is, I believe, for all the inadequacies that it has in very many places, improving quickly. We desperately need more investment and I know that David Blunkett will be doing everything he can in the current spending review to get it for me. With that investment there is no reason at all why we cannot have in England and Wales a Prison Service which routinely takes offenders into its care, keeps them securely but simultaneously gets them off drugs, reduces their impetuosity and their dangerousness, and gives them an education to make them employable usually for the first time. And in doing so gives them a unique opportunity to leave their social exclusion behind them. That I suggest would be to really make human rights for prisoners a reality.