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The cost to prison legitimacy of cuts

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I welcome the opportunity to be part of this conversation. The topic is an important one, and range of relevant issues large. We could talk about prison governors, or privatisation, or what is happening to the prison officer, or about longer sentences and changing population composition and their effects, amongst other things. I hope to pull some of these strands together in this paper. My main argument is that cuts *in themselves* do not necessarily threaten values, but *economic rationality* and aspects of the new economy do. I shall explain further.

The last twenty years have seen a major reorganisation of prison life and work. The scale and pace of change are enormous, and increasing. Stringent financial constraints entered the scene relatively recently. How does this change the landscape? Is there a direct relationship between cost and prison quality? What are the risks of financial austerity in criminal justice? Does economic rationality secure or threaten moral values? These are tough questions, so my aim today is to share some thoughts with you, based on my research and observations over a considerable number of years, as well as on the work of others. I have drawn on a number of relevant books, whose authors say something that resonates with my view of the world, so let me begin by identifying my current favourites.

But before I begin, let me declare a position: I read Politics at York University in the early 1980s, and liked Political Philosophy a great deal. I prefer Rousseau (the idealist democrat) to Hobbes (the pessimist), Rawls to Nozick, and social democracy to Conservative neo-liberalism.² I am probably a 'utopian realist', that is, someone who adheres to a political version of appreciative inquiry, where we always try to imagine a

better future, but where this better future is created out of real current trends^{3,4}. I don't like violence, brutality, indifference or words like 'robust'. I think human and social relationships matter a great deal. I believe in something called 'moral dualism' — by that I mean an equal commitment to 'soft values' like care and harmony, and to 'hard values' like safety, order, power (I mean 'good power') and efficiency. These value positions inevitably influence my response to the questions set. So what about those books?

First, Tom Hodgkinson, in a book called '*How to be Free*', suggests that human beings are meant to be idle⁵. Efficiency is an invention of the global capitalists, he says, and is generally intended to make a profit for the privileged and greedy few. In his words:

The Western world has allowed freedom, merriment and responsibility to be taken from it, from ourselves, and substituted with greed, competition, lonely striving, greyness, debts, McDonald's and GlaxoSmithKline. The consumer age offers many comforts but few freedoms.

He adds, later:

'Anxious people make good consumers and good workers'.

As others have argued too, and as the precarious British middle classes are beginning to detect, the enormity, the impossible, dizzying scale of late modern capitalism 'saps the spirit'⁶. So my first sub-question is, how anxious or secure should the workforce be? In whose interests is workforce insecurity? What do we

1. Some of the ideas in this paper were first outlined in earlier publications. I have drawn on those papers here, where relevant, but have also developed a more general argument here about the risks of, and rationale for, cuts.
2. That is, I prefer social policies supporting greater inclusion, social justice and equality (see Giddens, A. (1998) *The Third Way: The Renewal of Social Democracy*, Polity Press).
3. Giddens (1998) see n.2, Giddens, A. (1990) *Consequences of Modernity*, Stanford, Cal.: Stanford University Press, and Loader, I. (1998) 'Criminology and the Public Sphere: Arguments for Utopian Realism', in P. Walton and J. Young (eds) *The New Criminology Revisited*, Palgrave, Macmillan, pp.190-212.
4. Loader argues that 'a utopian realist criminological stance endeavours to connect issues of crime and social regulation with questions of ethics and politics, and enter the public conversation about crime equipped with an articulated, principled and future-oriented set of normative values and political objectives (the utopianism). But it also seeks to engage with the *realpolitik* of crime and criminal justice, and formulate (for example, crime reduction) proposals that have some immanent purchase on the world (the realism)'. Utopian realism is 'systematic', 'normative in orientation', and 'prudent' (ibid.) as opposed to instrumental and technical. It never loses sight of 'the intimate connection between crime, politics and ethics' (p. 207).
5. Hodgkinson, T. (2007) *How to be Free* London: Penguin.
6. Hodgkinson (2007) see n.5: see also Giddens (1990) see n.3, and Sennett, R. (2006) *The Culture of the New Capitalism (Castle Lectures in Ethics, Politics, & Economics)*, Yale University Press: New Haven.

lose when we reduce certainty? Richard Sennett suggests we lose 'character' as the virtues of the efficient workplace become different from the virtues of good character⁷. Sennett argues that the human consequences of the 'new flexibility' are profound. Our new high-risk, low-loyalty, lean workplaces corrode our moral identity, as we are forced to abandon habits of dependability, service and routine and the concept of 'the career', and must embrace a modern work identity consisting of short-term, short-notice, outcomes-driven 'projects'⁸. Such an environment breeds anxiety and brings in its wake new controls which are hard to understand. Character, a term linking personality to civic or public ties, is lost in this new short term, non-linear environment. Loyalties and commitments cannot be fostered. The iron cage of bureaucracy with its reward of upward social mobility for the diligent time-serving worker, has given way to a less predictable and individualised form of work, where, 'the qualities of good work are not the qualities of good character'⁹. Rapid institutional change is part of this dynamic, redefinable, flexible and flatter world of work. This environment is not conducive to trust, loyalty and commitment and may be dysfunctional for the individual and for the organisation.

Are there any alternative methods for getting more prison officers to look like the outstanding ones? Is there anything, in POA resistance to current trends, which should be preserved? Some of you may have seen our summary of the findings of our public-private sector comparison in the *Prison Service Journal*¹⁰. In it we say that the public sector have unappreciated strengths in the use of authority. Compared to the private sector, public sector prison officers get this right more often. They also get it wrong — there is a heaviness to public sector officer culture — but when they are at their best, public sector prison officers are better at professionalism. This is important, and might be worth paying for¹¹.

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This brings me to my second favourite book, also by Richard Sennett. Sennett's *Culture of the New Capitalism*¹² argues that apparently rapid economic growth has come at a high price: ever greater economic inequality and social instability. He asks, 'what values and practices can hold people together as the institutions in which they live fragment?' (p. 3). His reply to himself: 'Only a certain kind of human being can flourish in unstable, fragmentary social conditions'. Most people need a 'sustaining life narrative'. Our organisations are increasingly future-oriented, so that *potential* results, *potential* ability is gambled on above past experience and track record. I like to think that my 20+ years of serious hard work in prisons research counts for something in my work place. What seems to count more is the research income I might bring in next

year. There will soon be few people above or around me who have witnessed this performance. This dispensing with memory is especially existentially troubling for people working in prisons, where experience — doing things the way they were done yesterday — is trusted, and known to be related to safety. Officers with experience get assaulted less often than officers with little experience. This is precisely because they have learned to use their authority well.

The values of the new economy are in conflict with our nature. There is so much unstable energy about, many of us just want to stand still and breathe. One of the features of the new economy, Sennett explains, is that 'transactions' have replaced 'relationships' in people's dealings with one another. There were problems with the old model. As Sennett puts it: 'The political and social rationale of fat bureaucracy is inclusion rather than efficiency', loyalty is rewarded, bureaucracies teach delayed gratification. They risk stagnation. We can no longer afford these luxuries, but we need to reflect on what we are giving up, and what the unintended consequences might be.

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7. Sennett, R. (1998) *The Corrosion of Character: Personal Consequences of Work in the New Capitalism*, New York: W. W. Norton and Company, Ltd.
 8. Sennett (1998) see n.7; see also Pollitt, C. and Bouckaert, G. (2000) *Public Management Reform: A Comparative Analysis*, New York: Oxford University Press.
 9. Sennett (1998): 21, see n.7; and see Liebling, A.; assisted by Arnold, H. (2004) *Prisons and their Moral Performance: A Study of Values, Quality and Prison Life*, Oxford: Clarendon Press, chapter 8.
 10. Liebling, A., Crewe, B. and Hulley, S. (2011) Values and Practices in Public and Private Sector Prisons: A Summary of Key Findings from an Evaluation, *Prison Service Journal No.x p.x*.
 11. See also Crewe, B., Liebling, A. and Hulley, S. (2011) Staff culture, use of authority and prisoner quality of life in public and private sector prisons, *Australian & New Zealand Journal of Criminology*, 44(1): 94-115.
 12. Sennett (2006) see n.7.

Short-term labour alters how workers work together. There may be problems of exaggerated or dysfunctional peer loyalty among officers in some public sector prisons, but in private sector prisons, where turnover is higher, and in public sector prisons with large numbers of new generation recruits, staff relationships are 'thin' and less reliable than they used to be. We have been in prisons recently where staff do not seem to come to each other's assistance when the temperature changes. This might be a function of new working conditions.

To illustrate a new risk of lack of accountability, Sennett uses the example of Harvard academic Jeffrey Sachs, a consultant to the Polish state ministry, who apparently treated Poland as a free-market experiment, but who did not remain in Poland as a government official. 'Having reorganised the economy, which is still trying to recover from this experiment, Sachs returned to the United States and moved on to problems in the environment' (p. 58). Does this make anyone else in this room think about prisons we might name? There is something to be said for commitment to the organisation. The three structural deficits caused by the new capitalist model are 'low institutional loyalty', a reduction in 'informal trust among workers', and a 'weakening of institutional knowledge' (p. 63). Accumulating knowledge about how the institution works means 'knowing when to make exceptions to the rules', as well as knowing when attractive looking strategies are likely to backfire. It is just possible that prison officers who get the use of authority right — neither avoiding it, incapable of it, or over-using it, have the kind of identity that makes this part of their job make sense.

Let me talk a bit more about prisoners, and the quality of prison life. How might cuts impact directly on prison quality? One important issue is prison size, and another is numbers.

Lord Carter's 2007 Report *'Proposals for the efficient and sustainable use of custody in England and Wales'*¹³, was commissioned to explore ways of saving money, and building new prison capacity in England and Wales. You will all remember, I am sure, that it recommended the building of two to three 'larger, state of the art' or 'Titan' prisons accommodating around

2500 prisoners each. Considerable problems were foreseen, and I think, some problems experienced in securing sites. What seems to have happened instead is the speedy emergence of the large, cluster concept, alongside the commissioning of 3 (?) new prisons of 1500 places each. These prisons will allow for a programme of closures of old, inefficient, and ineffective prisons offering better value for money and much improved chances of reducing reoffending and crime' (p.1). Carter's Report, we should note, has the sub-title, 'Proposals for the efficient and sustainable use of custody in England and Wales', not 'Proposals for the legitimate use and operations of custody in England and Wales'. Much yearned for cost effectiveness is driving these policy choices.¹⁴ What matters in prison quality, according to Carter, are staff culture, management processes, buildings, and crowding. Aspects of existing practice are not ideal, and 'we are not living in an ideal world'¹⁵. We are hearing this mantra a lot at the moment: 'this is the real world'. This commentator suggested that 'smaller communities, or prisons of around 400 prisoners, are more successful but about four times more expensive'. This is 'not feasible in the current political climate', or acceptable to the contemporary tax payer.

This efficiency-utilitarian position is a seductive and dangerous one. Swansea was the smallest prison of 12 we included in a study of suicide prevention and it was better on almost all measures of moral performance than any other prison in the study, despite its dilapidated (and therefore expensive) buildings. The other small prison in the study, Eastwood Park, was successfully improved by a performance test process as well as being the most successful implementer of the new suicide prevention strategy. Swansea housed 366 prisoners in old and expensive accommodation in a research study conducted in 2002-4 (it was built in 1861), had the major advantage that it was staffed disproportionately by local people, and prisoners accommodated there were not too far away from their homes. It was a high risk prison with fewer than the expected number of suicides, given its population. It also had good staff-prisoner relationships, and was described as unusually safe by prisoners. They 'trusted in the environment' and felt that staff cared about

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13. Carter, Lord (2007) *Securing the Future: Proposals for the efficient and sustainable use of custody in England and Wales*, Lord Carter's Review of Prisons, London: HMSO.

14. There is a feeling that the Prison Service was treated generously in the past, with high expectations about the returns on this additional investment in programmes and regimes. These expectations (which were not directly about legitimacy either) have not been met.

15. Member of the Carter Working Group, personal communication (2008).

them, for example on entry into custody¹⁶. We have just found Shrewsbury prison to be significantly better than its comparator prisons on everything. We could do to explore more systematically the evidence on size, quality and outcomes. It is possible that small is beautiful — or at least less cumbersome, complex and resistant. I shall return to this possibility below.

There may be a case for the replacement of some old prisons with new facilities. Governors argue that dilapidated, Victorian, prisons are 'almost unmanageable'. They generally mean the larger, inner city prisons. Other jurisdictions, such as Western Australia and some American states, having adopted our Victorian designs, have closed their oldest prisons and turned them into museums. There is a need for something better than police cells, or Brixton, and new prisons offer the opportunity to experiment with potentially better design and facilities. New prisons have several advantages including: the chance to establish a specific ideology or culture, to design in safety, to unite staff around positive goals and to take advantage of new thinking about first night centres, and to locate prisoners closer to home. New prisons are notoriously difficult to open, however, so attention needs to be paid to ways of accomplishing stability in the early years. Our smaller older prisons may have hidden strengths — relationships trump buildings in Swansea and Shrewsbury.

The Isle of Sheppey cluster currently houses 2,224 prisoners and is expected to house a new houseblock shortly, so scale is increasing to around this size.¹⁷ The main rationale for moving upwards in size, overtly acknowledged by all, is economies of scale rather than prison management philosophy. The 'operational challenges' associated with large prisons include the possibility of large scale disturbances, difficulties in meeting the needs of specific groups of prisoners, or managing prisoners of different types on the same site,

and the 'management complexities associated with a large staff complement'. There is also a widespread consensus that most existing old Victorian local prisons 'need reinventing'¹⁸. But this is true of large Victorian locals, not necessarily of smaller ones. The clustering process is relatively new, and I have not seen any independent evaluations of its implementation or effects. The Prison Service is still learning about the complexities of shared services, facilities, and multiple function sites. The claim made in the Carter Report was that larger prisons 'should improve the prisoner experience'¹⁹. Concerns discussed by the Workgroup include 'management grip, order and control, and the (distinctive, tight) style of governing necessary to successfully manage this kind of establishment'²⁰:

'Our strategy is to have our best people, the best processes, to get it right, initially ... we need more evidence on what works and what doesn't work in running prisons'²¹.

I worry that 'number 1 Governors' will be remote, and less experienced or competent Governors will actually govern the satellite sites. Private companies favour the large prison model (they argued that the Titan concept was workable).

There are some measures to 'moderate the use of custody', and efforts being made to modernise (that is, lower the cost of) prison by reducing the cost of the workforce, supported by a market testing of new capacity, as well as of existing prisons. So we have some new, large prisons, all awarded to the private sector, I think, and a plan to reduce the 'costly, outdated and inflexible pay and grading structure' applied to prison officers up to 2010. There are some good reasons to be pursuing this agenda, and legitimate reasons to be considering the role, pay and professional standing of prison officers. But it is not clear what the right balance is, or what the vision is that is driving these changes. There is talk of

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16. Liebling, A., Durie, L., Stiles, A. and Tait, S. (2005) 'Revisiting prison suicide: the role of fairness and distress', in A. Liebling and S. Maruna (eds) *The Effects of Imprisonment*, Cullompton: Willan, pp 209-31.

17. Clusters exist on the Isle of Wight (1,617) and in Redditch (1,427).

18. Personal communication.

19. Personal communication (2008).

20. Personal communication (2008).

21. Personal communication (2008.)

'modest' sentence control and some closures of older and more inefficient prisons. As I said in my opening remarks, some inefficiency is not all bad. We could save a lot more money by reducing the prison population to what it was in 1992 — half of what it is now. Reversing the fetish for long and indeterminate sentences would achieve that, if we really wanted change.

Scholars of the prison have used a wide range of language with which to talk about the use of imprisonment. Nils Christie refers to the 'carceral texture' of society, arguing that prison population size is a policy choice²². We should remember that examples exist of deliberate and successful decarceration (Finland, and West Germany) and of countries maintaining exceptionally low and 'liberal' penal regimes (Norway, Sweden, Denmark). David Downes talked of the 'depth of imprisonment' when comparing penal policy in The Netherlands with that of England and Wales²³. Attitudes towards, and practices relating to, normalisation, welfare, discipline, punishment and rehabilitation, the role of prison staff, and rights and privileges including home leave and visits, impact on how psychologically invasive and damaging prison sentences are. These attitudes and practices differ between jurisdictions in ways that are indicative of visions of the offender and broader social and cultural relations. Roy King and Kathleen McDermott talked later of the 'weight', or psychological burden of a prison sentence, reserving the term 'depth' for practices relating to security and control²⁴. Their preferred term, 'weight' included the quality of staff-prisoner relationships, material conditions, rights and privileges, and the nature and quality of staff-prisoner relationships. These differ between jurisdictions but also between prisons within a jurisdiction. Recently Ben Crewe has referred to the increasing 'grip' or 'tightness' of imprisonment, as prisoners are required to actively engage with the

complex requirements of new sentences²⁵. David Garland referred to this phenomenon as 'responsibilisation'. On all measures, then, quantity, depth, weight and tightness, the prison has grown and deepened in England and Wales since the early 1990s²⁶. We are the highest user of imprisonment in Western Europe, and hold more life sentenced prisoners than all of the rest of Western Europe put together.

Let me recap on where I think we are, so you don't think I am arguing for the status quo. Problems faced by contemporary prisons in England and Wales include

overcrowding and unpredictable population growth, the need to control costs, expensive and unsuitable accommodation, prisoners located in the wrong parts of the country far away from their homes, high levels of risk of disorder and suicide, cultural resistance to change and in some cases, care for prisoners among (some public sector) staff, industrial unrest, and poor outcomes. We are assured that the private sector can 'do better' but the evidence suggests their performance is very variable²⁷. There is continuing uncertainty about what is required of the contemporary prison: safe care, drug treatment, punishment, containment or future crime prevention. There is increasing and often incoherent political use made of whimsical penal strategies, which often have far reaching effects on the tricky

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There are some 'essential features' of British prisons which are enduring and which emerge continually in research. One of these is that prison staff identify strongly with their landing or houseblock and also very powerfully with 'their prison'. They have faith in 'what worked yesterday', but are perturbed by future-oriented reorganisations of their work, and they need to feel safe in order to care for prisoners²⁸. But

22. Christie, N. (1993) *Crime Control as Industry: Towards Gulags, Western Style?* London: Routledge.

23. Downes, D. (1988) *Contrasts in Tolerance: Post-War Penal Policy in the Netherlands and England and Wales*, Oxford: Oxford University Press.

24. King, R.D. and McDermott, K. (1995) *The State of Our Prisons*, Oxford: Oxford University Press.

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

26. Liebling assisted by Arnold (2004) see n.9

27. Liebling et al (2011) see n.10.

28. Liebling, A. and Price, D. (2001) *The Prison Officer*, Leyhill: Prison Service (and Waterside Press).

there are good and bad models of safety, and different staff cultures favour different visions of it. Prisons are special, place-based communities whose form is shaped by social and political ideas held about crime, punishment, social order and human nature. They suffer from an 'inherent legitimacy deficit'²⁹ and are susceptible to brutality, indifference to human needs, abuses of power and breakdowns in order. Prison staff have always been difficult to manage, and somewhat oddly represented by the POA (why is this?), and they engage in 'low visibility work'. Prisons pose daily moral and management problems, and getting thorough the day peacefully is a difficult and contingent task which has to be continually worked at. Staff and prisoners frequently express the need to be individually known. Highly competent Governors capable of leading and motivating staff, keeping an eye on the detail, orchestrating an effective senior management team, of ensuring that sometimes competing targets are reached in ways that make sense, and who manage to be visible to staff, are in short supply. So things could be better.

So let me come to my last 'favourite book of the moment', Michael Pusey on 'economic rationalism' and its risks. Pusey argues that an older generation of economists, who typically come from modest social backgrounds, who had some historical memory of the Great Depression, and who learned a kind of economic sets within a liberal arts framework and thus within a philosophically informed view of society, the state, and the human condition, came to be replaced by a new generation of more socially privileged economists with a trained incapacity to be social or think socially. The new 'economic rationalism' reduces the norms of public policy to those of private enterprise. This 'whizz kids' accumulated disproportionate power in the Treasury and Cabinet and killed off their elders by 'branding them with accusations' of being 'not sufficiently hard nosed', of being 'inconsolable value-intellectuals', not properly equipped for life in the 'real world'. This development came at a cost to civil society, culture and identity in Australia. The economy takes precedence over 'the

political order', and even social order, and society is represented as some sort of resisting sludge, an opponent of the economy. The state loses its deliberative capacity, and instead, decontextualised goals are pursued in ways that seem to ignore 'real tasks and situations'³⁰. A 'technocratic positivism' reigns, and what Pusey calls the 'manipulative sciences': psychology, accountancy and neoclassical economics, rise to power. He says:

In a shakeout that is more like an organised forgetting, whole departments have lost not only their dead wood but also, and not by accident, their wise men and their corporate memories, in reforms that have been depoliticised in the name of 'flexibility, responsiveness and effectiveness'³¹.

The case for new, larger and competed prisons is constructed as a legitimate outcome of contemporary fiscal and social circumstances. Previous analyses have shown that the concept of efficiency is 'ethically blind'.

He raises some important questions about what the bounds of legitimate economic behaviour and reasoning might be. What he seems to be saying is that when 'captains of business' and top civil servants think only as businessmen, and not as social citizens, we run into trouble. What looks like a 'fiscal crisis' might be a 'legitimation crisis', or an 'overload crisis', or a 'modernisation crisis', or a 'crisis of society'. If we organise labour only according to this narrow rationality, we violate something

in our culture and identity.

The risks inherent in the concept of efficiency

The case for new, larger and competed prisons is constructed as a legitimate outcome of contemporary fiscal and social circumstances. Previous analyses have shown that the concept of efficiency is 'ethically blind'. American scholars Feeley and Simon identified an 'emerging constellation of discourses and practices, knowledge and power' known as 'actuarial justice' in the 1990s, which promotes the concept of efficiency and provides a rationale for it. Actuarial models of justice risk neglecting the moral agency of persons³². They prioritise the identification, classification,

29. Sparks, R. (1994) 'Can Prisons be Legitimate?', in R. King and M. McGuire (eds) *Prisons in Context*, Oxford: Clarendon Press.

30. Pusey, M. (1998) 'Economic Rationalism, Human Rights and Civil Society', *Australian Journal of Human Rights*, 4 (2): 131-153.

31. Pusey, M. (1992) *Economic Rationalism in Canberra: A National Building State Changes its Mind*, Cambridge: Cambridge University Press.

32. Feeley, M. and Simon, J. (1992) 'The New Penology: Notes on the Emerging Strategy of Corrections and its Implications', *Criminology*, 30: 449-74.

incapacitation and management of unruly risk groups rather than the understanding or handling of them as moral, psychological or economic agents. According to Feeley and Simon, actuarial justice invites new forms of custody and surveillance, including 'no frills' varieties of prison use and high parole revocation rates³³. It emphasises utilitarian purposes over moral considerations.

We need to be very wary of a preoccupation with efficiency that brings in its wake, moral indifference. There are of course good moral arguments for being careful with and held accountable for public expenditure. But general questions of value have come to be *replaced*, rather than *restrained*, by questions of technical efficacy³⁴. Bureaucracy and its framing of problems in a technicist language, geared towards the twin (internal) goals of efficiency and efficacy, 'kills' morality³⁵. There can be a sinister edge to large, efficient, bureaucratic organisations, which can become impersonal or at worst, horrifying^{36 37}. The question of what kind of institutions, indeed prisons, we design, shapes the state of our society, civilisation and culture. Larger, cheaper prisons are likely to become the new norm³⁸. The warning we should heed, already noted by classic prison scholars, is that large bureaucratic institutions tend to displace external goals with internal, self-maintenance purposes: internal order and security are prioritised over any rehabilitative aspirations. Richard Sennett has provided a persuasive analysis of the speeded up 'new economy' and its threats to institutional loyalty, informal trust, and the build-up of institutional knowledge³⁹, as I have argued earlier. In the new economy, he argues, politicians behave like consumers rather than craftsmen. They lack direction and commitment, favouring consultants, and working to a shortened time-frame. Institutional life becomes superficial. These are dangers we should heed. As well as innovation, employees need a 'mental and emotional anchor; they need values which assess whether

changes in work ... are worthwhile'⁴⁰. Without such an anchor, some form of revolt against the new economic imperative and its 'fragile politics' is likely⁴¹. Efficiency is one important value. It should be balanced against others, like the building and safeguarding of just institutions.

The Carter Review recommended an 'aggressive programme of cost and activity profiling across the public sector estate' resulting in an 'efficient cost' for each prison⁴². It is clear that the financial management of prisons is going to become much tighter. We hear talk of 'the Tesco's model': that is, large and cheap. Personally, I prefer Waitrose. Governors are expressing concern about the search for cost savings being too savage. There is an important distinction to be made between reducing inefficiencies and doing business on the cheap. Prison staff turnover is low in public sector prisons and high in private sector prisons: what does this tell us and where is the optimum rate? Conversations about whether prison officers receive enough training for their increasingly complex role increasingly raise the question of cost: 'if we provided more professional training, we would have to pay them more'. These are moral as well as policy choices. Imprisoning less rather than more cheaply is one alternative policy option.

More and larger prisons means more prison staff recruitment and training. Addressing the 'costly, outdated and inflexible pay and grading structure that currently exists' in the public sector is important, but we should also look closely at whether staff working in the private sector are too loosely bonded to their organisations and whether an unintended price is being paid for cheaper, high turnover labour⁴³.

Prisons are inherently complex, morally dangerous, and unstable institutions, with other less obvious or instrumental purposes besides reducing reoffending, such as the expression of public rage, the demarcation of moral boundaries, the realisation of political

33. Feeley, M. and Simon, J. (1994) 'Actuarial justice: The Emerging New Criminal Law', in D. Nelken (ed) *The Futures of Criminology*, Sage, London, pp. 173-201.

34. Garland, D. (1990) *Punishment and Modern Society*, Oxford: Clarendon Press.

35. Boutellier, H. (2001) *Crime and Morality: The Significance of Criminal Justice in Post-Modern Culture*, Dordrecht, Boston, and London: Kluwer Academic; see also Daems, T. (2008) *Making Sense of Penal Change*, Clarendon Studies in Criminology, Oxford: Oxford University Press.

36. Bauman, Z. (1992) *Modernity and the Holocaust*, Cambridge: Polity Press passim.)

37. Bauman argues that atrocities can emerge in modern societies when old, unresolved tensions (such as fears and conflicts) meet the 'powerful instruments of rational and effective action that modern development itself brought into being' (p. xiv). His warning is that apparently civilised, modern, bureaucratic social and technological developments used for social engineering have hidden within them the potential to dehumanise as well as the potential to enhance life (p.1-9). The Holocaust, he argues, 'was a legitimate resident in the house of modernity' (p. 17). Modern bureaucracies have the ability 'to coordinate the action of a great number of moral individuals in the pursuit of any, also immoral, ends' (p. 18). He reminds us, after Elias, that 'right policies' do not mean the elimination of human problems (p. 12).

38. As Bauman starkly warns us, it was budget balancing, means-ends calculus, and expert advice, that led to a decision to exterminate rather than export the Jews (p15-19).

39. Sennett (2006) see n.7.

40. Sennett 2006: 185, see n.7.

41. Sennett 2006: 197 see n.7.

42. Carter (2007: 36) see n.13.

43. See Liebling et al (2011) see n.10; Crewe, Liebling and Hulley (2011) see n.11.

authority, and the shaping of values⁴⁴. Prisons differ, their cultures range from constructive and pro-social to indifferent or at worst, brutal. To forget that prisons suffer from an inherent legitimacy deficit, that order has to be worked at, or that their moral performance differs significantly, is to invite catastrophe. As Woolf argued in 1991, prisoners have legitimate expectations of certain standards of treatment including fairness, openness in decision-making and respect⁴⁵. Very few prisons meet high standards of legitimacy, and most establishments suffer from 'value imbalance' of one kind or another. Our understanding of what makes prisons more rather than less legitimate, the role of culture, management, and values in shaping this equation, and the possible links between 'interior legitimacy' and prisoners' well-being or other important outcomes, has only just begun⁴⁶. We actually don't know what the impact will be of cheaper prisons on these important dynamics.

Prisoners are beginning to express hopelessness and frustration with longer and more arduous sentences, which are difficult to manage one's way through. The requirements placed on prisoners to obtain declassification, parole and home leave, are increasingly stringent (and in many cases, unobtainable). As Richard Sparks argues in his article, 'Can Prisons be Legitimate?'⁴⁷, there is a complex interplay between the material (I would add, emotional and moral) conditions of prison life, and the external, ideological, structural and economic conditions in which such prisons exist. Increasing sentence lengths, a harshening climate, and continued population growth, make the prison experience feel less legitimate in the eyes of prisoners, even if the interior conditions are reasonable. Questions of exterior legitimacy include the fairness and transparency of policy decision-making (including any bidding process), accountability, and the extent of democratic deliberation involved in such decision-

making. Current penal discourse risks sweeping the concept of legitimacy under the carpet, privileging 'economic efficiency' over morality. The combined effects of this new 'economic rationalism'⁴⁸, with a re-emerging 'scientism' and unrestrained punitiveness in public and political thinking about offenders, is 'altering the contours of the penal realm'⁴⁹ in ways that are troubling.

Conclusion

The Carter report ended by reminding us that the rise in the size of the prison population since 1945 has been constant and steady, saying:

The combined effects of this new 'economic rationalism', with a re-emerging 'scientism' and unrestrained punitiveness in public and political thinking about offenders, is 'altering the contours of the penal realm' in ways that are troubling.

There is therefore a need for a focussed and informed public debate about penal policy. It will be important to consider whether to continue to have one of the largest prison populations per capita in the world and to devote increasing sums of public expenditure to building and running prisons and responding to fluctuating pressures as they emerge. Not only is it costly, inefficient and a demand on scarce land, but the sporadic way in which the pressures emerge and are responded to inhibits the delivery of effective offender management and rehabilitation⁵⁰.

Many critics would prefer to see a thorough and well-informed re-evaluation of the role of the prison, and a diversion of these funds into 'justice reinvestment'. How problems are defined limits the dialogue or possibilities of authentic communication and then policies are crafted out of these limited rationalities. More prison, achieved cheaply, is one policy option but it fails to take account of David Garland's critique that the prison is a 'tragic' option,

44. See for example, Garland (1990) see n. 34.

45. Woolf, H. and Tumim, S. (1991) *Prison Disturbances April 1990: Report of an Inquiry* London: HMSO .

46. See for example, Liebling assisted by Arnold (2004) see n.9; Drake, D. H. (2007) *A comparison of Quality of Life, Legitimacy, and Order in Two Maximum-Security Prisons*. Unpublished PhD Thesis: Cambridge University, Tait, S. (2008) *Prison officer care for prisoners in one men's and one women's prison*, unpublished PhD Thesis, Cambridge University.

47. See Sparks (1994) see n.29.

48. Pusey (1992) see n.31.

49. Sparks (1994: 24) see n. 29.

50. Carter (2007: 30) see n.13.

beset by irresolvable tensions and symbolising broken social relations. The 'conditions which do most to induce conformity ... lie outside the jurisdiction of penal institutions'⁵¹. Even if we were to agree that new prisons, with better designs are desirable, in opting for larger, cheaper prisons and more clusters we are privileging a certain economic kind of understanding of the problems faced. We risk forgetting there are other shared aims (such as social justice, crime prevention and inclusion, or legitimate prison communities) and there is a moral language which has been excluded from this debate⁵².

What does it mean for us socially, morally and politically when the main determinant of policy is the loaded and now frequently used term, 'we have to be realistic'⁵³? There are different visions of what is realistic. I come back to a distinction we may wish to pursue further between utopian realism versus cynical or pragmatic realism. Jonathan Sacks and Hans Boutellier

both remind us there are meant to be limits to legal sanctions — they put 'seal on the wax of moral sentiments'. In other words, methods of social control should be embedded in social arrangements, with the law only stepping in at the margins⁵⁴. We are placing the law and the prison centre stage, and it simply cannot do, nor was it ever intended to do, this amount of work. What we are seeing is the politics of fear overriding the politics of hope⁵⁵. This suggests a change in our values, from maximum freedom for all, to maximum security, and at the lowest cost. I propose that we think again. The question we should bear in mind is what 'image of society' lies behind our decision-making? How is power being reorganised? What are we choosing to spend our limited resources on? Cuts are not a threat in themselves. Economic rationalism, punitiveness, and lack of intelligent deliberation, pose the real dangers.



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51. Garland (1990: 289) see n. 34.

52. An 'instrumental rationality' dominates; see Dryzek, J (1995) 'Critical theory as a research program', in S. K. White (ed) *The Cambridge Companion to Habermas*, Cambridge: Cambridge University Press, pp. 97-119.

53. Some 'facts' are really values.

54. Boutellier (2001) see n. 35.

55. Sacks, J. (2000) *The Politics of Hope*, Vintage Press.