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Special Edition: The prison crisis

Building up to today's prison crisis:

An Interview with the former Chief Inspector of Prisons, Nick Hardwick

Professor Nick Hardwick was formerly HM Chief Inspector of Prisons and Chair of the Parole Board. He is interviewed by Dr Anastasia Chamberlen, Assistant Professor at the Department of Sociology, University of Warwick

Looking back: Long-term changes in the sector

AC: *In 2010 you became the Chief Inspector of Prisons and stayed in this role until 2016. Has a lot changed in the past decade?*

NH: 'In some ways it would be a mixed picture. Generally speaking, things have improved. If you look at the position of young people for instance, when I started as HMCIP there were about a third more young people in custody. The number of young people in custody has dropped two thirds over the last decade. So that's a positive change.

Look at policing and police custody. Back in the 1980s when I ran Centrepoint we saw young people who had been abused. But we didn't think we could go to the police with that problem and it didn't mean there wasn't a problem, it was that we didn't think the police could solve it. Our options and approach on this today would probably be different, but would not be completely better.

Similarly, if you look at prisons: there are obviously problems in prisons, but, if you take a longer-term view, overall conditions have improved. The health service in prisons is now managed by the NHS, that's better than it used to be decades ago. But on the other side of that, I certainly think that prisons in the last 5 or 6 years have indisputably deteriorated very sharply and today there are new issues. The proportion of people in prison who are there for violence or sexual offences has grown so you could argue that today we have a more challenging population.

When I worked at Nacro in the early 1990s I remember very distinctly how we were having a big staff meeting and it was announced the prison population had reached 40,000; we all gasped in horror at how high it was — and now that number has more than doubled. Related to the issue of numbers, there are many older people in prison who the prison system isn't catering for.

So overall, if you took a much longer-term view, I think things have improved. But if you took a shorter-term view, over the past decade or so there has been a variation in the kinds of challenges facing prisons.'

AC: *When you took up the role in 2010 what were your main objectives? What did you hope to achieve?*

NH: 'If you look at the Inspectorate's findings over a decade that we published in my last Annual Report for 2015/16, what basically happened was that from about 2006 to 2010, there had been a consistent but slow improvement. The Inspectorate's findings were that things were getting better. So, when I took up the role my aim was to continue to do that. There were possibilities at the time with talk about rehabilitation, reducing the prison population, normalising conditions, getting the numbers of women in custody down: all these seemed realistic prospects then.

But from 2012 onwards things deteriorated and there were very sharp deteriorations in a series of issues which came together. This includes major reductions in staffing. This affected especially the most experienced staff, which is the most damaging bit of it. We then had a series of quite destabilising policy initiatives, and on top of that we had the sudden surge of drugs and all those things that came together and had a pretty disastrous impact on the prison system.

The role of staff in giving prisoners a sense of hope and the impact of shortages in staff

NH: 'If you look at the published staffing statistics, operational staff were cut by about 25 per cent between 2011-2013. It wasn't just the numbers, there was a particular reduction in the numbers of experienced staff; they got rid of the most experienced people as they were the ones that cost most. That's why it's now so difficult to reverse what happened. This is because even though now they are recruiting

This interview was conducted in May 2018 and thus may not reflect some of the latest developments. The AC abbreviation refers to Anastasia Chamberlen and NH refers to Nick Hardwick. The editors of this special issue would like to thank Professor Nick Hardwick for taking part in this interview.

more staff, it takes time for those staff to gain the necessary experience.

Meanwhile, under Grayling there was a policy of toughening prisons up and reduced access to rehabilitation and other opportunities. But, prisons and prisoners need to get their sense of hope from somewhere. The prisoner must be able to generally say 'I can get through my sentence, I can get out, I can make this bearable, I can get through it.' But if people think that whatever they do the system is unfair towards them, they lose hope. Then coupled with this mentality, if staffing isn't consistent and there is a big turnover in staff, then all those things come together and damage the relationship between staff and prisoners. These are relationships upon which prisoners depend and putting them under threat creates a general sense of instability.'

Disorder in prisons today

AC: *Recently we saw increases in incidents of disorder. Are these expressions of disorder simply linked to the rise in the use of new psycho-actives substances?*

NH: 'In general terms it seems to be that the factors that contribute to riots in some instances include legitimate grievances that are widespread and combined with poor relationships between staff and inmates. Then, if you have the ready availability of either alcohol or drugs which reduce inhibitions and you have a ring leader and then also have a spark that sets things off, then all of those things together can create disorder. But they don't usually boil over; on the whole the system is good at putting a lid on these things when they happen.

However, it is misleading to talk about the 'prison crisis' in the sense that it represents some great combination of events across the system like there was back in the early '80s. I think what has happened up to now has a less dramatic look. There have been many unnecessary deaths, each of those were a crisis for the individual concerned and their family and the staff who had to deal with it, but the system as a whole was able to contain many such situations. At the same time however, the fact that the death rate can be and has been lower shows that what happened was not inevitable.'

AC: *Let us unpack the notion of 'prison crisis' a little more then. Do you think this is a unique moment for prisons in which they are in a deeper, worse state than before or is this a picture that corresponds to its past or its nature as a system?*

Suicide and violence are not just serious issues in themselves, but they're a symptom of a loss of control generally.

NH: 'I think it depends on how you measure a crisis. To some extent the system in terms of what you can measure has slid back to how it was 10 years ago, so the progress that was made is now undone. If you look at the suicide rate in 2016-17 it got to a point when it was higher than it had ever been before. But looking at the data you can also see that we had been in this position before; what's new about this is some of the relationship issues are now different because of the staff losses, and the consequent loss of experience.

I think that because the malaise is more widespread it's more difficult now for individual prisons to avoid the downward trend because prison governors have less control over what is happening in their prison. Also, there are certainly new issues in terms of the number of elderly prisoners that the system has to cope with. I'm not completely convinced that the drugs issue is that new. There have always been issues with drugs in prison and if it's not one thing it would be another. I think that such issues aren't greater than they'd been before; the difference now is that the handling of such issues shows that the prison hasn't got the capacity to manage these problems.

Suicide and violence are not just serious issues in themselves, but they're a symptom of a loss of control generally. So, I think there's a loss of control in the system which means the other things you might want to do can't happen because the system is too unstable for them.

The current Chief Inspector has made it more difficult for those issues to be ignored. I think the Inspectorate was powerful in describing what was happening inside prison in these past few years. We have tried to make the reports accessible in a way that people could understand and doing so gave these issues greater media coverage.'

AC: *It sounds like, for you this is not necessarily a new crisis but it has a few new features.*

NH: 'I think that the situation has elements of what had happened before and some new elements too. But the progress and advances that had been made before were recently destroyed due to poor decisions, and it will take time to get back to where we started.'

What caused the prison crisis?

Staffing issues and a crisis of relationships

NH: 'In my view the deterioration of prisons was a result of political and policy decisions. I don't think you

can construct a logical scenario when suddenly prison governors and prison staff all decide to do their job less well. Not across the system. You can't explain what happened as a result of individual failures. Having said this, there were some prisons that were worse than others, so I'm not saying that there were not individual features to this crisis too. But if you look at the pattern overall, I don't think an explanation of it being down to individual prisons and staff is tenable and I think if you look at the coincidence of the rise of deaths with the declines in staff and the decrease in deaths when new staff start, that says a lot. It was a political and policy failure. Politicians and policy makers at the time were warned about deteriorating conditions, but they didn't respond to those warnings.

What prisons rely on is the relationships between staff and prisoners. You need to have staff on the ground in a consistent enough way to do that work. If you simply rely on procedural security, locks and bars and CCTV, as some systems do, you can probably on that level clamp down on the violence, but you can't do the rehabilitative activity you also need to do. So, if you're preparing someone to leave prison, they need to make their own way to work in the morning, they need to show some initiative and autonomy. And if you don't have the staffing numbers for such relationships that's where things can go wrong. You can keep prisons safe by locking people in their cells all day, but that doesn't do anything for when those prisoners eventually get out. It's about staffing numbers but it's also about making sure that the systems in place are fair and aren't arbitrary, so that prisons have some sense of hope. No one is talking about luxury here, what we are talking about is the basics and the incentives for people to behave well.'

Overcrowding and capacity

NH: 'If you analyse prison population figures against prison capacity every so often there will be a real pinch point. At those pinch points there seems to be a spike in deaths, and when you have a wider gap, more capacity, death rates seem to decline. The issue is not population per se, the issue is capacity and when the system gets to about 99 per cent of its capacity, at that point you have to start putting prisoners where there is space rather than where they need to be. If you look at the series of riots that we had in winter of 2016/2017, part of that was caused because wings

were lost, maybe only a fairly small number of people were actually involved; but, then once this happens, those prisoners have to be moved somewhere else. That then disrupts the prison that they're being moved into, and you get that kind of knock on effect. So, I think you need some headroom in the system. It appears to me there's a link between when that headroom gets pinched and when you get more trouble.

The other point to note about overcrowding is that it is not simply a question of physical overcrowding in that cells are doubled up. It also means you don't have the capacity of prison staff to deal with the size of the population growth. In practice this means, prisoners can not get to visits or it's too big of a queue for the phones, etc.'

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Looking back and looking forward: Prison reformers should not neglect the harm of crime

AC: *You've had at least a decade's worth of experience in this area, in the criminal justice system in general, what areas do you think are important areas to focus on from now on?*

NH: 'I believe in prison reform. However, what drives the increase in prison population has been people doing longer sentences for serious offences and those on the prison reform front, often avoid acknowledging

that issue. Those offences are serious, they have hurt people, a high proportion of them would be around violence against women, for example. Thus, if you are going to have an argument for decreasing the prison population, you need an argument across the board. It needs to be an argument that properly reflects and understands the harm that people cause, an approach that recognises such harm impact's but nevertheless still allows treating people decently.

Similarly, if you produce a narrative that is entirely prisoner-focused you focus on some characteristics and not others. We know that prisoners are overrepresented in terms of mental health problems, or having been in care, but still a large portion of prisoners don't have those characteristics. It is important not to imply prisoners are simply a victim of circumstance. If you remove the agency from the prisoner you are effectively saying 'well, prisoners don't have choices about what they did and they don't have a choice about what they will do in the future'. Whereas on the whole I think most of them have made bad choices and

could have made other choices; they have agency. Because of this agency, I always believe in the future they could make better choices. But, if you say, 'he's a victim of circumstances' then I think that you dehumanise people. Of course, I'm not denying that many people will be badly affected by trauma.

So, if we think the prison population should be lower, we need to be consistent about that in terms of campaigns and need to be able to describe that in a way that doesn't downplay the harm people have done. I think it's ethical that people who have crossed the boundaries of what society says is acceptable to be punished. But I don't think the only punishment we should have on our sleeve is prison. I think we should look into other solutions too.

The prison reform movement, academics, etc. have nothing really to say about what we should do with people like Worboys other than lock them up for longer, even doing that, can such people be reformed? Or can we see them as reformed?

I remember when I was at the IPCC there was a case concerning a woman with a daughter with Down's Syndrome; they were being tormented, bullied, by kids on the local estate where they lived. Although the behaviour of the youths who were tormenting them was relatively minor it had made their lives a misery. And they shouldn't have put up with it. What are those who believe in reform, who don't think long sentences are the answer to everything, what have they got to say about all of that? And how do we have a credible narrative on that? I think that's a big gap in both research and policy.

And that has consequences for the work we all do. Looking at serious offence rates post release, they are less than 1 per cent which at first sight looks pretty good. That probably means about every year between 12-20 people released from prisons commit a violent offence and quite often it's a violent offence against women. This means a woman gets smashed up or beaten or assaulted. If you put it like that, it sounds very different from the less than 1 per cent statistic.

There's also another issue regarding prison staff. We confuse people doing very difficult things and getting it wrong sometimes and people deliberately abusing their powers. You get out of bed in the morning wanting to do the right thing, wanting to help and then mess up or something you hadn't expected happens. There are, of course, people who are doing something deliberately negligent too. I think if you don't make that distinction it can have wider consequences.

If you look at instances where people have died in prisons, you can probably find things that staff on the ground could have done better and could have saved lives. But you need to be clear that the overall picture is such because of policies and political decisions.

Dumping it on the people who are doing the job on the ground and criticising them is a mistake. People who are progressive, interested in reform sometimes seem to be as prone to do that as people from other perspectives. I think that is a mistake.'

Addressing the crisis of community services

AC: *Institutions like prison and parole, where do you predict they'll be in a few years from now. Do you think there is room for them to improve?*

NH: 'On the whole I'm reasonably more optimistic about prisons because within prisons there are still the governors and staff who know what to do; who want to do the right thing. There are staff who will get more experience, you can see how that would improve.

I think the biggest problem in the system is actually in probation and community services which have been entirely wrecked. I'm not sure that now there's anything to build up from. Community services almost need to be reinvented; that's where we have the most serious issues.

I remember hearing someone say 'the Metropolitan police is recruiting 300 extra staff to deal with gang crime in London'. My view would be we may need to do that, but we also need to recruit community workers to address such an issue. It's the destruction of those community services more broadly that will impact on the criminal justice system in the end. It is not about sticking plasters. Solutions are about the range of services in the community. If you take parole, quite often the biggest problem now with IPPs is for people who have got very chaotic behaviour, there aren't facilities in the community to manage or supervise them. Thus, the issues aren't really in the prison or parole system, they're out in the community or rather, they are in the lack of facilities in the community.'

AC: *It sounds like prison to some extent came to replace the lack of services in the community*

NH: 'Exactly. You can see this clearly with regards to people with mental health issues: why are people with mental health issues in prison? But, what is the alternative? That's not to say there couldn't be alternatives, there should be alternatives, but they don't exist at the moment.

So all in all, solutions to all these problems mean community investment. I'm not an abolitionist, I think we need prisons and I think the prison estate should be modernised. But in the end I would put most of my investment into community resources rather than into the prison. That's where we need it most and that's where we would get most impact from generally. Community investment also means, inevitably, the most positive impact on prisons.'