



The Future of The Prison Service

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*Tony Blair is the Home
Affairs spokesman for the
Labour Party and likely
Home Secretary if that party
should be elected to power.*

It is a very great pleasure to be here and can I apologise straight away for being so badly delayed. It was apparently due to a failure of the electricity grid and when I got on the train at Coventry I sat down immediately opposite Norman Fowler! I can lay my delay fairly and squarely at the door of those who I consider responsible for the electricity privatisation. It has also been a very lively time in the Home Affairs brief; in fact I think I feel subject to the old Chinese curse about "Living in Interesting Times". But we have had an obviously tremendous amount of debate about the Criminal Justice System and I suppose it is at a point in time when it is very much in the public eye and there is a possibility of moving the debate on, indeed moving it on to ground that allows us to come to some conclusions.

THE PURPOSE OF THE CRIMINAL JUSTICE SYSTEM

I would like to begin my lecture by paying tribute to the person who's honoured by these lectures and the tremendous service that he gave to the Prison Service over the years. I believe that when you come to a new brief such as I have to the Home Office, you are continually aware of the danger that people are in when they separate one particular part of the system from all the other parts. There is a tendency to isolate one part and have policies and responses to it without seeing how it fits in the overall system. I want to begin my lecture on the future of the Prison Service by saying to you

that I don't believe that we can analyse the future role of the Prison Service without setting it in the overall system of Criminal Justice. If we abstract and treat it as if it were a self-contained unit without any implications for other parts of public policy, then we will make a very serious error indeed. The purpose of the Criminal Justice System in my view is first of all to try and prevent crime arising altogether. Secondly, to divert as many people as possible from the necessity of custody. Thirdly to imprison those whom it is necessary to imprison, only. Fourthly to understand that the purpose of imprisonment is to ensure that the best chance of rehabilitation is given to those that are in prison. What we require is not a series of policy initiatives that are reflex responses to particular events occurring in our Society, but a thought out policy, a strategy if you like, that deals with all the various aspects of the problems that we face and doesn't attempt to isolate the Prison Service from the rest of the Criminal Justice System. The problem in this area at a level of policy has been the belief that somehow you have to choose between a liberal agenda and a hard agenda. That belief that you have to make that choice distracts us from trying to seek out a coherent strategy that starts from the point of view that people want to live in a safer community and ends with the belief that those who are in prison should be rehabilitated. We should not engage in some ideological choice between a "liberal and hard agenda", but we should understand that from the point of view of our Society

there is no choice between prevention and punishment. What the people desire in our society most of all is to have crime prevented, but recognise the need to punish where it is necessary.

THE PRISON SYSTEM IN CONTEXT

I think the best way of starting and seeing how that works its way through is to look at what actually happens to people on the ground in the communities in which we live. In my surgery in my constituency a couple of weeks ago there was an old lady who came to see me whose door had been battered down in her council house, she had then been seriously and violently assaulted and robbed. I would start with what that old lady wanted to see happen as a result of that. She needs help obviously as a victim, she will want the offender dealt with promptly, detected and put through the Criminal Justice System. She will want it done in a way that is efficient. She wants that offender to come out at the end of serving the custodial sentence, if that's what the court decides, in a better shape to take his place in society than when he went in. But most of all, she'll wish that it had never happened in the first place and that the society in which she lived did not give rise to this type of behaviour. So she will want all those things dealt with, she won't want them dealt with bit by bit, she will want a programme that enables us to tackle every aspect of the problem that she has faced. That's why when you look at the enormous Home Office budget (£6 billion or more) and the £1.5 billion we spend on the Prison Service and if you add in the Local Authority money of at least say some £5.5 million, it seems rather extraordinary that the bill for crime prevention is round about £15 million slightly more if you add in the Department of the Environment; it is curious that our priorities should be engaged in that particular way. And so, what I would say to you is that we start by setting the prison system in context, we do not isolate it.

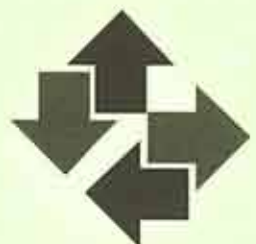
WOOLF REPORT

Now the conundrum that Sir Brian Cubbon (former Permanent Under-Secretary of State at the Home Office) addressed in the Australian Conference in 1988 of the relationship between the prison capacity and sentencing policy, takes us to the heart of the debate on the position of the Prison System

within the Criminal Justice System and the inter-relationship between the different parts of that system. Now this was of course addressed by Lord Justice Woolf in his report on the Prison System published now over 2 years ago. The Woolf Report proposed that a Criminal Justice Consultative Council should be set up to provide a national forum for agencies in the system and that that would be backed up by 24 local committees at a lower level. In December 1992 the Consultative Committee published its first discussion paper "*Prisoners Awaiting Trial*" which looks at the unconvicted prison population. It asks Local Committees to look at the scope for, amongst other things, reducing custodial remands without putting the public at risk, reducing the time spent in custody awaiting trial and considering the potential of the increased use of powers to hold remand hearings at courts close to where remand prisoners are held. Now the Consultative Committee clearly has an important role in improving liaison between Agencies, though I think it would be fair to say it's not yet seen as a major player in key debates. The Committee in itself is insufficient to meet the need for a closer relationship between sentencing and prison capacity and I would like to set out for you today four basic principles that I think that we should bear in mind when discussing sentencing in the future for the Prison Service. So having said my belief that you must put the Prison Service in the context of an overall strategy for Home Affairs, I would then like to add these 4 basic principles.

A COUNCIL FOR SENTENCING POLICY

Sentencing policy was obviously outside Lord Justice Woolf's remit and so he was unable to address the issue of sentencing at all. But the Labour Party, along with many other individuals and organisations has, for some years, been arguing the case for the establishment of a Sentencing Council, and that Council would allow for consistency in what is at the present time a grossly inconsistent system and the development of a coherent sentencing framework. Now I am well aware that a Sentencing Council has been the Labour Party's policy for a considerable period of time. I would say that insufficient attention has really been focused on it, and I think that because of the way that the public mood is changing, there is a much greater

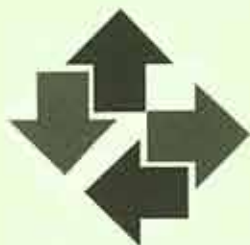


possibility of focusing people's attention on it now than there was before. And I think that is particularly so when we look at the recent research that has emerged from the Home Office of the cost of the Criminal Justice System which is being provided under Section 95 of the 1991 Criminal Justice Act. That research shows the percentage use of immediate custody by Crown Courts in 1990, and a quite extraordinary disparity in the sentences that have been given at different courts. At one end of the scale there is Snaresbrook and Woodford Crown Courts where they sentenced 35% of indictable offences to immediate custody. Norwich and Chelmsford in the south sentences 49% for immediate custody, and outside the south east Mold and Carnarvon Crown Courts used immediate custody in 59% and 60% of cases respectively. The range of custodial sentences for domestic burglary is equally diverse, the Stafford Crown Court using sentences of a custodial nature in 37% of cases and Mold in 72%. Now that is obviously a disparity that cannot be explained simply by reference to the facts. Such a sentencing lottery should not be accepted. A Sentencing Council which builds on the sentencing guidelines, assisting the Court of Appeal by providing a structure of guidance across the offences will bring some consistency to the system. The Council can then suggest ceilings for different types of offences, detailing weight to be attached to such factors as age, convictions, guilty pleas and repeat or multiple offending. It would be a far more coherent approach to sentencing than that attempted by the Government so far in the Criminal Justice Act. That Act did attempt to reduce the unnecessary use of custody by introducing proportionality, but as the White Paper *"Crime, Justice and Protecting the Public"* said in 1990, prison can be an expensive way of making bad people worse. The prospects of reforming offenders are usually better if they stay in the community, provided that the public is properly protected.

CRIMINAL JUSTICE ACT 1991

I believe that that would also provide a more complete framework, than the few clauses that have been put in the legislation so far, and I think that it would help at least in trying to clear up some confusion presently surrounding Clause 29 of the

Criminal Justice Act. Everybody understands what Clause 29 was designed to avoid, and that was a series of trivial offences being aggregated together and then a custodial sentence being put into effect in circumstances where it was not really necessary. But it is vital that the features that relate to aggravating factors that can be taken into account by the courts are properly understood, and properly understood within a coherent sentencing policy, otherwise some of the confusion that is apparent at the present time will grow worse. There is a risk therefore that all of the sentencing considerations behind Clause 29 could be put to one side, and that could be a mistake. Since the original invitations to this lecture went out last Summer, these key sections of the Criminal Justice Act have come into effect and since that time also there has been a large, somewhat unpredictable fall in the prison population. Home Office predictions suggest that the prison population will be increased to some 57,500 by the end of the decade, whereas in fact the actual population has fallen by some 8,000 between April and the end of December with a steep rate of decrease from September. On April 4 there were some 48,000 prisoners, by September 4 there were 46,000 and this had fallen by 6,000 to 40,000 on December 31, 1992. Now I think it is important that we understand the reasons for this decline in numbers. It would be encouraging if we were sure that it was part of a deliberate and considered policy. However, there are some indications that the fall can simply be linked to problems in other parts of the Criminal Justice System. There has, for example, been a marked drop in the number of cases that are coming before the courts, and at a time or rising crime there was a somewhat staggering report of some 50% fewer cases being heard in the London area last year, accompanied by a 12% reduction in arrests by the Metropolitan Police. In Hull, the workload of the Magistrates Courts fell by 19% last year. These may be connected with the policy of the Criminal Justice Act, but I think it is important that we at least understand why that happened, because others are giving explanations such as the demoralisation of the police with excessive paperwork and problems arising in particular courts. We don't know, but it is imperative to find out.



DIVERSION FROM CUSTODY

Whatever the reason, at least one thing has happened and this is the second principle. The fall in the population has given us an opportunity, a breathing space, in which we can influence more clearly some of the Woolf proposals, particularly with regard to overcrowding. The Woolf Report is regarded in revered and reverent terms - it is one of those reports where there appears to be virtually a consensus that it is a wonderful idea and should be implemented as quickly as possible, but what is more difficult to see is whether it is actually being implemented in quite the way that Lord Justice Woolf indicated, or indeed with the speed that he wished it to be. But it has to be said that at least there has been some progress and improvements in the Prison Service, but there is also a very very long way to go indeed, and in his last Annual Report the Chief Inspector of Prisons, Judge Tumim, whilst noting that the improvements had taken place, said that there were many many defects that still want to be remedied. Many local prisons, for example, he said did not "offer sufficient time out of cells or a satisfactory range of opportunities. Those visited in 1991-2 remained overcrowded with very little space and while the quality of activity offered in some regimes for young offenders had improved, it is disappointing to report a decline in the hours they spent out of the cell in closed establishments." He also commented on inmates' work, noting that too few inmates were engaged in worthwhile work. He criticised the ridiculous meal times and that some prisons continued to require food to be served in adjacent recesses.

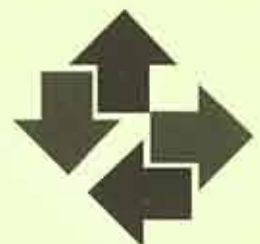
PURPOSE OF IMPRISONMENT

Now, I think that we need to be very clear about the purpose of implementing the Woolf Report. As I said at the very beginning, it is right that part of our strategy should be the rehabilitation of those that are in prison. I think it is very very important that we stress the fact that the punishment that people have meted out when they are sent to prison is to be imprisoned. We don't then send them into prison so that their life is simply continual punishment whilst they are in prison. Our objective at the end is to ensure that people come out more able to face up to their responsibilities as decent law abiding citizens in our society. And if we

don't, and if the prison regime as such tends to produce people that are more likely to re-offend at the end, the notion that that is somehow tough on crime seems to be absurd, because what that old lady that I described who came to see me wishes, is that person when he comes out of prison to be more likely to be a law abiding member of the community and more responsible than when he went in. And so the idea of implementing the Woolf Report is not simply because one feels a sense of responsibility to those who are put inside the prison, but because it is in the public interest that they have the best chance of rehabilitation whilst they are there. And that is why, then, it seems there must be much greater urgency in the way that we implement the Woolf Report, and I have to say that it appears to be the case that the Prison Officers' Association and those that are engaged in the Prison Service management are keen to get on and to implement the provisions of the Report.

PRIVATISATION AND ACCOUNTABILITY

I therefore come to my third principle which is that that is the priority that we should face within our prison system, not privatising the prisons or indeed market testing the management of it. Now I should say to you that I think that the argument in general terms about privatisation of public services is one that is much bigger than the scope of this lecture, but is one that the public has seen political battles over the last few years. I'll leave aside for the moment any ideological predisposition that anyone may have towards the public and private sectors, but I think that there are particular reasons in relation to the Prison Service why privatisation is not the right way we should go. I have to say that I am fundamentally opposed both in principle to the privatisation of the Prison Service and indeed in practice. In principle I am opposed because I believe that people who are sentenced by the state to imprisonment should be deprived of their liberty, kept under lock and key by those who are accountable primarily and solely to the State. Now, of course I have said that many of those who wish to take over part of our prison system do so with the best of motives, but the fact is this really can't be because the commercial firm coming in to run part of the Prison Service or indeed run a prison, is running it as a commercial



enterprise. It can be said therefore that the primary responsibility is to the shareholders of that organisation, and whereas I don't doubt that it may well be the case that there are those with very good motives who want to assist in the prison service and running of prisons in the private sector, I do not believe that it is right, when you deprive people of liberty that you do so under any auspices other than those of the State. I also believe there are two additional objections which are particularly relevant.

PUNISHMENT FOR PROFIT

Firstly, I think there is a danger that if you build up an industrial vested interest into the penal system, and as part of that interest they are designed obviously to keep the prison population such that it satisfies those commercial interests, then I think there is a risk that that distorts the penal policy that otherwise you would introduce.

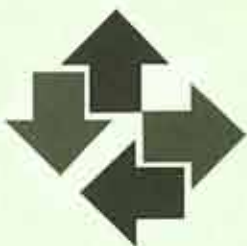
Secondly, I believe that privatisation is a diversion of our energies from where those energies should be properly set. I will make it absolutely clear and I repeat again today at the risk of offending anyone I would not support any form of restrictive practice that stands in the way of progress and reform within our Prison Service. If you think of the time and the energy and the debates in Parliament on privatisation rather than how we improve the Prison Service, then I think the point that I am making about the diversion of energy in resources and time is well made. According to the Guardian recently, the first priority of the newly appointed Chief Executive, Derek Lewis, is to make recommendations to Ministers about the form and timing of further private sector prison management. I think that rather underscores my point about the priorities in the prison system.

Now let me make one further point. I think if you have one or two privatised prisons within the system, partly because of the novelty, partly because there would be so much attention focused upon them, then they are likely to be fairly well run and make a contribution to the prison system. I don't say that the existence of those one or two would undermine the concept of the prison service, but I do think it is impractical to think that you could run vast parts of the prison service in that way. Secondly, when we debate with Government Ministers, as

we often do, about the Prison Service, and they say well look at the Wolds and the very good regime that is there and why should the Labour Party be opposed to that. If you look at what is good about that prison regime it is the specifications laid down by the Home Office, that was part of the contract of running the Prison. Now if that is right, then that is something that has come about by Government will. Government has decided that they will lay down these criteria in the way that the Prisons are to be run. My response to Government Ministers is well if this can be done as a demand made upon the private sector, why can it not be implemented in the public sector where the Government is actually in control of management itself. I have a feeling sometimes that the purpose of this is to introduce decent specifications in the private sector, pretend that is then the result of the private sector, whereas as a matter of fact it is the result of the Home Office actually taking responsibility to introduce a proper prison system, but introducing it only in the private sector and not introducing it with sufficient vigour in the public sector. Therefore, I believe that that the diversion of privatisation is draining away some of the energy which could be used to improve the public sector.

SECURE ACCOMMODATION FOR YOUNG OFFENDERS

The fourth matter I would like to raise, and I will deal with this very briefly, is with the Home Secretary's recent announcement about the new institutions for young offenders. I say new, but the fact is that we are re-living the past here. I really do not believe that setting up a series of new centres for young offenders is the right way to deal with this problem. Now I agree that there is a problem I have consistently said that there is a problem of persistent juvenile offending that is causing great distress within local communities, and we have to deal with it. And I agree too that there are those who are out of control and beyond the ability to be controlled properly either by their parents or the rest of society. Then there is a case for using secure accommodation for those young people. It is a tragedy, I don't pretend there is any form of answer to it, but there are people in my constituency and elsewhere who desire protection. But we can build upon a system that is already there. Setting up 5 or 6 new centres is simply to go over



the mistakes of the past. I point out to people who say that this is all about training and education now and not simply about punishment that they should recall borstal training. It has always been said if you look at young offenders institutions and prospectus for them, the prospectus is actually extremely good. It's a bit like when you read a Chinese Bill of Rights, the Rights are absolutely fantastic but the worries are whether they are actually implemented. And if you look at the prospectus of the Young Offenders Institutions that is all about training and education. That is not the problem. It's not that there doesn't exist goodwill in these institutions, indeed they attempt to make the best of their situation, but, the reason why I believe it to be so fundamentally wrong, is that the last thing that you want to do with those persistent young offenders is to put them alongside 40 or 50 other persistent young offenders and lock them up for a considerable period of time. All the evidence is that they come out worse than when they went in. Therefore I think that this is a mistake, I think we should be building on the secure accommodation that is already there, but most important of all, and this comes back to the very point I made at the beginning, by the time these youngsters have got to that situation, let's be brutally honest with ourselves, there's probably not a great deal that anything other than time is going to be able to help. We can do as much work as we possibly can, and we should, and there is secure accommodation that helps us now, but the aim should be to prevent and divert those who ever get into that position in the first place, and that's why it is insane to set up these new centres at the same time as the local authorities are having to close some of their facilities for disturbed young people in communities throughout the country. When we find that the service has actually been cut in some parts of the country! When we find that employment and training opportunities for young people are being withdrawn! When we find that some young people are facing the situation now as a result of the changes in the benefit system where they are without benefit, they are without a job and without a training! Now, it seems to me, that if we are to look at this as a part of the coherent strategy in dealing with juvenile offenders, then we put at the end of the chain the notion of secure accommodation for those that we deem it is necessary. We don't say that that is the policy for dealing with

juvenile crime because we all know it isn't.

IN SUMMARY

That brings me back to the very point that I started from and that is to put sentencing policy within an overall strategy of the Criminal Justice System. The purpose of that system should be to make our community safe, that those that are in prison should be there in order that they get the best chances of rehabilitation. The Prison Service goals that have been established by the Woolf Report, are agreed across a very broad spectrum, must be implemented. Privatisation is a diversion. Above all we regard the Prison Service as an integral part of the process of justice. In the end crime is a problem that arises through a breakdown of a community, and unless we are prepared to take the steps to reform both our Criminal Justice System and the Prison Service, the steps that I think most people now agree are necessary, we shall be forever dealing with the consequences of the breakdown in the community in which we live ■

