



PENAL POLICY & PRISON MANAGEMENT

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In his landmark report, Lord Woolf drew our attention to the inward-looking stance of the prison system and its relative isolation from other aspects of criminal policy (Woolf, 1991, 260). I will endeavour in this paper to locate prisons within this broader terrain – a context which, after all, lies at the heart of Sir Brian Cubbon's question of five years ago that is set forth as a text for this year's Perrie Lectures.

My central theme however is that criminal justice policy and practice be regarded as an arena characterized by competing ideologies. It is my argument that liberal and humane beliefs and sentiments within criminal justice agencies – what might be termed the Humanity credo – always tenuous and precarious – are especially vulnerable at this time. The threat comes not so much from punitive-retaliatory sentiments (although these should never be under-estimated) but from the ascendancy during recent years of what might be called the credo of Expedient Managerialism.

A word or two is required to spell out these competing ideologies. One aspect of the Humanity credo was put to me by a prison governor who talked of "giving prisoners better than a fair deal"; it also has something to do with what a senior Home Office official referred to as "a properly adult relationship between management, staff and prisoners". (Rutherford, 1993, at 23 and 157) The credo embraces an optimism

that constructive work can be done; an adherence to the rule of law; and an insistence upon open and accountable procedures. The Dutch criminologist, Willem de Haan, put it well (in his assessment of the Utrecht School) when he wrote of a "strong empathy with the delinquent as a fellow human being ... a person, on the one hand, needing help and, on the other, entitled to certain basic rights. In other words compassion, co-responsibility and a deep sense of humanity ..." (de Haan, 1990, 69)

By contrast, Expedient Managerialism eschews any claim to a moral mission. Instead, the orientation, as David Garland observes in his *Punishment and Modern Society* is towards institutionally defined managerial goals. (Garland, 1990, 184) The essence of this credo emerges in the account by James Jacobs of a change of regime that took place in the mid-1970's at Stateville prison, Illinois. The incoming warden "brought to the prison a commitment to scientific management rather than any correctional ideology ... (He) is neither in favour nor opposed to rehabilitation programs. His primary commitment is to running a safe, clean, program-orientated institution which functions smoothly on a day-to-day basis and that is not in violation of code provisions, administrative regulations or court orders. He has brought a new definition of administration to the prison. He stresses efficient and emotionally detached management. He has attempted to

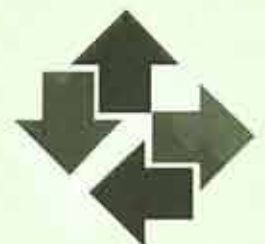
remove the affect attached to handling inmates" (Jacobs, 1977, 103-4).

It seems to me a matter of critical importance that the prevailing Expedient Managerial credo appears to be rapidly gaining ground. Some three years ago, in the course of research for my recent book, a senior prison governor from the United Kingdom said this to me: "I have become quite concerned about the management style of the Prison Service in the light of an increasing preoccupation with efficiency. The tail is beginning to wag the dog rather than the other way round. I am very committed to the philosophy of efficiency and effectiveness, because it is important that we get value for money out of the resources, and that management be in control and developing policies for improvement of the treatment of prisoners. However, some aspects of the efficiency strategy have meant that the values of headquarters have been twisted. We no longer have the concern for prisoners at the forefront of our mind. Efficiency is at the forefront of our mind, more as an end than as a means, and that does concern me." (Quoted in Rutherford, 1993, 157). It is this tension between Expediency and Humanity that lies at the heart of the contemporary crisis facing criminal justice. Expedient Managerialism gives priority to narrowly-defined performance measures and to short-term trouble-shooting over any articulation of purposes and values. The tendency is to sidestep basic deficiencies and to seek new ways of ensuring business as usual. The agency's pre-occupation is getting through the day as smoothly as possible, of moving matters along in accord with established procedures. This environment provides a comfortable workplace for practitioners who have little inclination to reflect on the agency's basic goals and who are not unduly disturbed by casualties along the way. No aspect of criminal justice appears to be free from tendencies of this sort. For example in March 1993, the Audit Commission published performance indicators for the police - which as P A J Waddington pointed out in *The Independent* (9 March 1993) - threaten to undermine the priority attached by Lord Scarman to "public tranquillity" as a goal of policing.

Against this prevailing Expediency credo there are the liberal and humane traditions and working ideologies adhered to

by practitioners within the Prison Service and other agencies of criminal justice. The Humanity credo extends back many years and it is beyond the scope of this paper to attempt any historical account. This ideological line can however be clearly traced in a series of pronouncements during the last decade and be illustrated (in what is not intended to be an exhaustive list) by brief reference to the following items

- The Report of the Control Review Committee (Managing the Long-Term Prison System, 1984).
- The Committee's membership included some of the most liberal senior governors in the prison system at that time, and the report emphatically distanced itself from the values reflected in the discredited "control units" of the mid-1970s (*Home Office, 1984, 17*). (See generally Bottoms and Light, 1987).
- A year or so later Ian Dunbar published his *A Sense of Direction* in which he urged "an approach which focuses on individualism, relationship and activity." (Dunbar, 1985, 84)
- Much in the same vein were the statement of purpose issued by the Northern Ireland Office as well as the influential report by the Scottish Office, *Opportunity and Responsibility: Developing New Approaches to the Management of the Long-Term-Term Prison System in Scotland* (1990).
- The Woolf Report of 1991 was able to build upon this line of thought and provide its own powerful endorsement. (Woolf, 1991)
- Most recently, and of particular significance, in June 1992, Joe Pilling ten months after his appointment as Director-General of the Prison Service for England and Wales, delivered the Eve Saville Memorial Lecture. This public lecture must surely be one of the most remarkable statements on agency values and working ideologies that has been made by a serving head of a prison system. You will recall that Joe Pilling spoke about the quality of relationships within the prison system. In highlighting the Service's purpose of looking after prisoners with "humanity" he went on to



explore five inter-related concepts, namely respect, fairness, individuality, care and openness. Mr Pilling stressed in this widely circulated paper that "it is a key task of leaders to articulate clearly the values of the organization ... values to be adopted at every level of the Service. They apply both to those who make policy and those who implement it, to those in contact with prisoners and to those who manage and support them. They are a template against which all our work as a Service will be judged." (Pilling, 1992, 8)

In this pivotal lecture, Joe Pilling focused upon the internal relationships within the prison system. But these values, as Lord Woolf emphasised, have also a great deal to do with looking up from the task at hand and making connections across the criminal justice process. It involves an appreciation of the subtle balance to be sought between criminal justice agencies with reference to both their independence and their interdependence. This effort to connect, of course, also extends beyond the boundaries of criminal justice and encompasses many aspects of social policy. I was struck by some phrases in an obituary of David Hewlings written by Ian Dunbar:

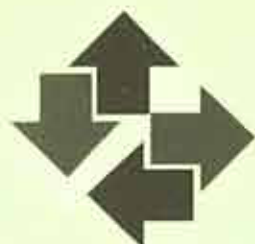
"Those who had the privilege of working with him found the experience inspiring, rewarding and deeply fulfilling, for he knew that it was only by gaining the wholehearted commitment of staff through the involvement with each other and with prisoners that prisons could become instructive communities with the potential for growth and development. But he also knew that prisons should not be isolated from the wider society. He was alive to the contribution that other organizations could make and to the need to work in partnership with them, whether in industry, the health and education services or in the voluntary sector" (*The Independent* 7 January 1991).

This wider perspective was embraced by the former head of the Danish prison system in an article published in 1980. H. H. Brydensholt wrote: "We were in the situation of either having to secure more prison space or to change our criminal law so that imprisonment was used less frequently ... It may well be that we will achieve our goals (of crime reduction) only by looking outside the criminal justice system for the answers".

(quoted in Rutherford, 1986 p. 174) The imperative that arises from this perspective for policymakers and practitioners - for the reflective actors of the criminal justice process - is to insist upon asking awkward questions about both the composition and size of the prison population. The issues that arise include:

- questions to be raised by the reflective actor have to include: where do prison populations come from: and what are the limits of the criminal law as an instrument of social control?
- the place of young people within the prison system. Questions on this topic in England and Wales are especially urgent given the number of youngsters killing themselves while in custody - 30 between 1 January 1989, and mid-March 1993. This total included three 15-year-olds. Where else in Europe, it must be asked, can such a ghastly toll be replicated? These issues will once again be placed in the public domain with the publication of the report of the enquiry established by the Howard League into four of these deaths at Feltham undertaken by Anthony Scrivener QC. One is also forced to ask questions about the extraordinary House of Commons statement by the Home Secretary of 2 March 1993, proposing a secure training order together with a new generation of secure centres for persistent young offenders aged 12-15. Mr Clarke's notion that such places will be "primary schools in citizenship" and with delivery of "affection" is one of breathtaking naivety.
- the boundary between the prison system and mental health agencies. Here the Reed report on Mentally Disordered Offenders of 1992 provides a springboard for action and one that should be high on the agenda for action within the new Prison Service Agency.

This wider perspective, it must be acknowledged, has been more in evidence over the last five or so years with criminal justice practitioners ready in many instances to question the role of prison in our society. Indeed we have experienced an echo over recent years of what took place in The Netherlands a generation ago, and in Germany in the early 1980s, of a new ethos among practitioners that began to share a



"bad conscience" about prison. This collective bad conscience was also a feature in the juvenile justice movement that became evident in this country during the early 1980s. This questioning by practitioners has succeeded in penetrating what Thomas Mathiesen in his marvellous book, *Prison on Trial*, refers to as the "inner circle" of criminal justice elites - persons who might have been expected to defend the institution of imprisonment even though they knew better (Mathiesen, 1990, 139-131). For example, in the white paper, *Crime, Justice and Protecting the Public* the government stated: "Nobody now regards imprisonment, in itself, as an effective means of reform for most prisoners ... (But) however much prison staff try to inject a positive purpose into the regime, as they do, prison is a society which requires virtually no sense of personal responsibility from prisoners ... For most offenders, imprisonment has to be justified in terms of public protection, denunciation and retribution. Otherwise it can be an expensive way of making bad people worse. The prospects of reforming offenders are usually much better if they stay in the community, provided the public is properly protected." (Home Office, 1990, 6). The substantial decline in the prison population in England and Wales during 1991-2 does seem to reflect this enhanced caution about the use of custody by not only the inner circle of criminal justice elites but by many practitioners across the criminal justice process.

The developing stress upon de-escalating the criminal justice process and humanizing the prison regime, if it is to be sustained, requires an open two-way street between policy-makers and practitioners. This recent progress certainly provides a real opportunity for progress by the new Prison Service Agency. But, if the counter forces of Expedient Managerialism gain further ground these values may be easily marginalized. An undue stress upon narrowly defined performance measures, market testing and contracting out the management of prisons to the private sector are all likely to work in that direction. (see Rutherford 1990)

These are among the critical pitfalls of which the new Prison Service Agency will need to be wary. A perennial concern must be that the new Agency will become

increasingly remote from criminal policy. Vigilance will also be required to maintain, and indeed enhance, a framework of public accountability. There are early alarm bells. Ministers will be less directly answerable to Parliament. Furthermore, it is now clear that the plan to have an independent non-executive Board to the Agency has been dropped. These are matters that demand urgent reconsideration. Thought should also be given to a thorough review of HM Inspectorate of Prisons, and other mechanisms that are intended to monitor and oversee the prison system.

It should be clear that I am not suggesting that everything rests with persons working directly within the Prison Service. There is a legitimate role for Parliament, the media and pressure groups in this regard. But inevitably, much of the onus will fall upon practitioners. I end here as I did in my recent book: it is with practitioners that hope must reside if, at least for a while, criminal justice is to be made a little more decent ■

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