THE ABOLITIONIST

a quarterly journal from Radical Alternatives to Prison

Number 10 Winter 1982

DANGEROUS PEOPLE

INSIDE:

RAPE

BOARDS OF VISITORS

SEGREGATION AND 'RESTRAINTS'

PSYCHIATRIC SECURE UNITS

DISGRUNTLED GUARDS

ALTERNATIVES: SECOND CHANCE AND BAPP

PRISONS, JUDGES AND POLITICIANS

plus: new prison briefing

80p

Radical Alternatives to Prison
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Number 10 **Winter 1982**

Radical Alternatives to Prison

RAP is a pressure group working towards the abolition of imprisonment. We do not believe that imprisonment is a rational, humane, or effective way of dealing with harmful behaviour or human conflict. We believe that it functions in a repressive and discriminatory manner which serves the interests of the dominant class in an unequal society – whether capitalist or 'socialist'.

Most people in prison are there for crimes which are a response to the frustrations of their social and economic position. Capitalism creates its own 'crime problem', and no amount of tinkering with the penal system will solve it.

We recognise that there will be no possibility of abolition without fundamental changes in the social order. We also recognise, while working *towards* abolition, that it may never be fully attained. There may always be some people whose behaviour poses such a threat to others and that their confinement is justified; we cannot tell. There are some such people in prison now but they are, without doubt, a very small minority of the prison population.

A capitalist state cannot do without imprisonment, but it can make do with very much less of it than ours does, as other countries, notably the Netherlands, have shown, RAP supports measures to reduce the prison population by means of:
- an end to prison building,
- legislation to cut maximum sentences;
- decriminalisation of certain offences, such as soliciting and possession of cannabis,
- an end to the imprisonment of minor property offenders, and of fine and maintenance defaulters.

The introduction of 'alternatives' like community service orders and intermediate treatment has not stopped the prison population from rising, but has increased the scope for interference by the State in people's lives. We do not deny that some good things have been done in the name of alternatives within the penal system, but we hold no brief for them. What we do support are 'radical alternatives' which are, as far as possible, non-coercive, non-stigmatising and independent of the State.

Many prison reforms amount to a sugar coating on a toxic pill. But while prisons remain, some features of our present system can and should be done away with, in particular:
- secrecy and censorship;
- compulsory work;
- the use of drugs to control prisoners;
- solitary confinement (by whatever name);
- the system of security classification.

These demands are largely satisfied by the Special Unit at Barlinnie Prison, which has shown what can be achieved by a less authoritarian and restrictive approach.

Many of RAP's medium term goals are shared by other groups who do not share our political outlook. But RAP's fundamental purpose is, through research and propaganda, to educate the public about the true nature, as we see it, of imprisonment and the criminal law; to challenge the prevailing attitudes to crime and delinquency; and to counter the ideology of law-and-order which helps to legitimate an increasingly powerful State machine.

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EDITORIAL

First of all, a warm welcome to members of PROP who are receiving this magazine for the first time. Under the new arrangement with PROP we have changed the content of *The Abolitionist* slightly: the 'Update' section has been dropped and its function of keeping readers abreast of developments in the penal system will be performed by PROP's new *Prison Briefing* which, in those months when *The Abolitionist* appears, will be published as a supplement to the magazine. We have also raised the price, which, according to the Law Lords' definition of the term, was definitely uneconomic. As from May, RAP's membership rates will be the same as PROP's: £6 p.a., unwaged £4 – so join now and same yourself £1. As a member you will also receive *Prisoner Briefing* monthly.

Dangerous Justice

A theme which runs through several articles in this issue is that of 'dangerous' offenders (and in the case of psychiatric secure units, mental patients) and the methods of control used to deal with them. The word is in inverted commas because it can so easily be misused as a label for troublemakers, or extended through vague notions of 'danger to society' to cover anyone with a couple of moderately serious convictions. It also conveys a false sense of objectivity: other people's fears of what a person might do are translated into an attribute of that person. Can such a slippery concept be a sound basis for policy?

The question of 'dangerousness' is a difficult one for abolitionists, for obvious reasons. RAP has been quite consistent over the years in maintaining that abolition is a long-term goal involving radical social change; that those who pose 'a serious danger to others' must be confined, for long periods if necessary; but that they should be confined in conditions that give them the greatest possible scope for self-fulfilment. What we have not done is to state with any precision what limits this recognition of 'dangerousness' sets on the scope for radical change to the penal system in the near future.

A useful starting point is provided by the report published in November by a Howard League working party, written by Jean Floude and Warren Young and entitled *Dangerousness and Criminal Justice*. Whatever we may think of the working party's specific recommendations, they have done a good job in setting 'the dangerous offender' in perspective. They acknowledge that corporate or white-collar criminals can do much more harm than 'dangerous offenders' as usually defined; while also making the valid point that imprisonment is not a particularly effective way of dealing with corporations. They also make the point – not a novel one, but one that it's useful to be able to quote from such a 'respectable' source –

> that preventive confinement of 'dangerous' offenders is of only marginal value as a protective device. Measured against the full range of modern social hazards its contribution to public safety is tiny, as is also its likely impact on the rates at which serious crimes are committed. (p. 19).

However, they rightly argue that it does not follow that preventive confinement can never be justified. To take an extreme example, if it could be shown that a particular prison sentence would avert one murder, it would not be a valid objection that this would only marginally affect the annual murder rate, let alone the overall rate of mortality.

In reality, of course, this doesn't happen: the most that can ever be said is that there's a chance – generally no more than 1 in 3, but in some cases approaching 1 in 2 – that a particular offender will commit a further violent offence. The working party argues that this risk has to be balanced against the risk of unnecessary imprisonment, and that in some cases the fact that an offender is at fault can provide a basis for a 'just redistribution of risk': it is more just that the offender bear the risk of being unnecessarily imprisoned than that his potential victims bear the risk of what he might do. This doesn't seem a very satisfactory way of putting it: what the offender faces is a *certain* hardship, not a risk; and the report assumes that the protective sentence is in addition to a retributive one which itself notionally represents the amount of hardship that can be justly inflicted on the basis of fault. Retributivists like Professor Bottoms will be able to knock a lot of holes in the report's theory.

But if we reject the idea of retribution (and we always have until now), then it's difficult to challenge the report's central argument, which is that prevention of grave harm will, in a few cases, justify sentences much longer than need be imposed, on grounds of deterrence, denunciation or whatever, on the common run of offenders. Instead of a single tariff of sentences based on the notion of 'proportionality' (but with sentences in the top 'bracket' largely determined, in reality, by preventive considerations), the report argues for a 'two-tier' structure, with most sentences much lower than at present (the working party seem to have in mind the levels suggested by the Advisory Council on the Penal System, but sentences on the Dutch scale would meet their requirements) and special 'protective' sentences for 'exceptional, high risk, serious' offenders.

But this two-tier system has dangers of its own. One relates to a matter the working party chose not to consider: the regime under which the 'protective sentence' would be served. Prisoners might live in small, supportive units, as at Barlinnie; but it's more likely that the 'hard core' singled out by the new sentence would be concentrated in one or two large, remote, 'human warehouses' as advocated in the Mountbatten Report and King and Morgan's *The Future of the Prison System*.

Another grave danger has been pointed out in November's *Criminal Law Review* by Sir Leon Radzinowicz and Roger Hood. Given the broad and (perhaps inevitably) vague definition of 'grave harm' in the report, it would be possible, depending largely on the political climate, for far more offenders to receive protective sentences than the 140 per year envisaged in the report.

The report proposes that anyone who does, risks, attempts or conspires to do any kind of 'grave harm' should be eligible for a determinate but reviewable sentence of any length the court may think fit. The only safeguards are that s/he must be over 17 and have committed at least one previous offence of 'grave harm', and that the court must be satisfied that s/he 'is more likely to do grave harm than other grave offenders of similar age and sex'.

If these proposals became law, any future 'law and order' crusades would be likely to press for virtually all violent recidivists (and some non-violent ones to boot) to be locked up and the key thrown away. And judges and Home Secretaries, with their well-known respect for the 'public opinion' they help to construct, would be able, and no doubt willing, to oblige.

One way to limit these dangers would be to restrict the 'protective sentence' to a list of specific offences and its length to a given number of years. The working party's grounds for declining to do either amount to little more than their inability to decide which offences to include or "to see on what grounds we could rationally prefer one length of sentence to another" (p.124). (The question is whether there are not strong grounds for prefering any sensible maximum to none at all, but there remains the seemingly insurmountable difficulty of defining a 'serious risk', and the fact that in practice the definition would inevitably depend on the political pressures and moral valuations that influence members of the judiciary and executive.

When the working party can't answer a question, they leave it to the good sense of judges and 'experts'. Which is odd, because one member of the working party is a judge and at least 4 are criminologists or psychiatrists, and if they couldn't work out any helpful criteria of 'dangerousness' with all the time at their disposal, it's unlikely that their co-professionals will do any better in practice. But in their desire to give discretion full rein, they come up with just about the worst mechanism for determining the length of sentence that could be devised.

The sentence passed by the court would represent the maximum length of time for which the offender could be imprisoned. So judges will naturally tend to impose the longest sentences they think the 'public interest' could possibly demand, in the confidence that the offender will be released as early as it's safe to do so. The offender would have the right to apply at specified intervals to a quasi-judicial review tribunal — something like a Mental Health Review Tribunal. Whether such Tribunals "embody the standards of natural justice" as claimed in the report is questionable; they are certainly not noted for being unduly preoccupied with the value of individual liberty. In any case, on the strength of the unsupported assertion that it will best be able to make an "objective assessment" if the risk the offender presents, the report proposes that an "advisory board" be set up which, meeting in private and with access to evidence that would not be available to the tribunal (so much for natural justice!), would advise the Home Secretary whether or not to accept the tribunal's recommendation. "Would this", the working party asks itself, "not make the tribunal rather an unreal safeguard?" — They "felt the force of this argument but. . . did not think it would be right to abandon the proposal for an independent tribunal" (pp.144-5). The question is, surely, whether it would not have been right to have abandoned the proposal for an advisory board, or, for that matter, the Home Secretary's power of veto.

The report refers to the offender's release at the earliest opportunity as "a right to be claimed", but in reality the political pressures that militate against release would count for far more than the offender's supposed rights. The only way to protect those rights is to set an an absolute limit, however arbitrary, on the State's power of detention.

Exemplary

In view of the hazards that beset any attempt to single out 'dangerous' individuals, it might be a good idea to stop talking in those terms and to accept instead, as the RAP Sex Offences Group argues, a policy of exemplary or retributive punishment as an appropriate response to *some* offences. The important thing, then, is the viciousness of the act, not of the actor: although, by and large, the features of an offence that would lead one to regard it as especially reprehensible (such as premeditation and brutality) tend to coincide with those that give reasonable grounds to fear what the actor might do in future.

To admit the idea of punishment at all is something of a heresy for RAP, but it is not inconsistent with the main ground for rejecting the fashionable 'just deserts' model, namely that it is absurd when applied to property offences in a class society. The argument that "a just system of punishment in an unjust society is a contradiction in terms" is difficult to apply to rape: can it really be said that rape might justly be punished (if it ever occurred) in a society where women and men were equal, but not in one where men oppress women? As the Sex Offences Group argues, a policy of examplary sentencing for rape would, to be just, require some fairly radical changes in the law and its administration. Above all, it requires that those who determine the length of sentence should have some genuine claim to represent 'the community' — it cannot be left to a bunch of ageing, upper-class men. And this raises the whole, vexed question of 'popular justice', which comes up more than once in our Book Review section. . .

A frankly punitive approach to crimes of grave violence at least brings the moral and political aspects of sentencing into the open, and out of the domain of the 'experts', and it has the merit of recognising that the functions of imprisonment are chiefly ideological rather than practical. If it enables us to produce proposals, like those of the Sex Offences Group, that are concrete, realistic and radical, then maybe we should learn to live with it.

RAP on RAPE

Below we publish RAP's response to the recommendations on the law of rape contained in the Criminal Law Revision Committee's "Working Paper on Sexual Offences" (HMSO, 1980, £3.70). Our evidence was compiled and submitted before the recent controversy over rape. Paragraph numbers relate to those in the CLRC paper.

RAP believes that the law simultaneously reflects and determines the power relations in any given society. Thus, despite its neutral guise, the law enshrines and gives force to a particular set of social relations, myths and attitudes. In a patriarchal and class society the letter and application of the law will necessarily unequally protect men and women, middle and working class people.

Against this framework RAP has sought to expose and challenge the credence given by the law to particular assumptions about the nature and role of women in our society. It is also incumbent upon law makers to examine critically and carefully these same assumptions.

Before referring to particular CLRC proposals, RAP would stress that we do not consider changes in the law only as adequate for improving the position of women in our society. The law has an important part to play in supporting and enforcing women's equality, but we recognise that women's inequality is deeply entrenched. There can be no doubt that a massive and radical shift in social relations is required to truly give women full citizenship.

Owing to lack of time, we will limit our comments to the CLRC proposals on rape.

Para 20-25
'Consent in Rape'. RAP believes that the words 'without her consent' should be replaced by the words 'against her will'. 'Without her consent' implies that women are passive partners in sexual intercourse; that they only give consent and do not actively initiate or choose sexual relations. This implication is unacceptable. However, if rape is defined in terms of 'against her will' rather than 'without her consent', it must be clearly understood that this must not be taken to mean that greater emphasis in rape trials should be placed on evidence of physical struggle.

Para 25
RAP believes that acts which obtain sexual intercourse by fraudulent means (i.e. confusion of identity, false offers of employment, etc) are totally unacceptable but we are unsure as to whether such acts should be included in the law of rape. However, we would note that the exclusion of such acts from the law of rape narrows its definition and encourages the mistaken 'popular' belief that rape is an act committed by 'crazed male strangers'.

Para 26
'Aiding and Abetting'. We support the CLRC recommendation that persons accused of aiding and abetting rape, even if the individual committing the act of rape is acquitted, can still be prosecuted for their part in the crime.

Para 27
'Presumption of physical incapacity in boys under 14'. We agree with the Committee that the law should recognise that boys under 14 are capable of committing rape.

Para 28-41
'Marital Rape'. We agree with the majority of the Committee that the law of rape should include marital rape. We find the arguments against its inclusion spurious. It is suggested that:

(a) women would use the threat of possible charges of marital rape as a tool in bargaining for maintenance,

(b) the police would find accusations of marital rape [illegible] and difficult to investigate;

(c) charges and investigation of marital rape would unduly damage the family;

(d) that married women already received adequate protection under family law.

In response to these suggestions:

(a) RAP believes that women *never* find it easy to bring charges of rape (see Rape Crisis Centre evidence). We find it an unpalatable and fraudulent assumption that married women would irresponsibly press charges of marital rape;

(b) presumably all police investigations of rape are difficult (and one would hope treated with delicacy). Police investigate charges of rape between cohabitees, a married woman also has the right to say 'no' to sexual intercourse with her partner and the police already have the experience of similar investigations,

(c) it is incredible that some members of the CLRC seem to believe that it is better for a wife to stay with her family at all costs (at the cost of being raped). And if, as it appears, the reasoning behind this is that charges of rape against the father by the mother will be traumatic for the children, isn't it equally if not more so the case that the children will find the father's rape of their mother terrifying and traumatic;

(d) finally, married women may find some protection under family law but surely they must also be entitled to the protection afforded to all women – by the law of rape. To marry, is *not* to renounce the right to choose with whom and when a woman has sexual intercourse.

Para 42
We do *not* agree with the Committee that charges of marital rape must first be sent to the DPP. There is no reasonable argument that could suggest that this is equitable.

Para 44 and 45
'Should the concept of rape be widened?' We believe that the law of rape *should* include as rape any kind of penetration, whether it be penile or with an object. We also believe that forced oral and anal sex should be included within the law of rape. All such acts are equally harmful and unacceptable for the victim. The Committee agrees with the Heilbron Committee that extending the definition of rape is problematic because 'the concept of rape as a distinct form of criminal misconduct is well established in popular thought, and corresponds to a particular form of wrong doing.' It is exactly this limited definition of rape which RAP believes the law must challenge. The Rape Crisis Centres have extensive evidence to show that rape is not

committed by a recognisably small group of individuals who attack and abuse women in *a* particular way. Whether the public do or do not believe that there is a very limited and definable category of rapists, it is for the law to make clear that to make any serious and definite act of penetration against a woman's will is rape.

Para 47

'Strengthening the law of rape'. RAP believes that the law of rape should be strengthened. However, we must immediately object to the Committee's reference to the so-called 'pick up' situation where 'the alleged victim has willingly allowed herself to get into a situation of a kind in which a sensible woman would have appreciated the possibility that sexual intercourse might be expected.' It is outrageous that the Committee should imply that a woman should lead a restricted life style for fear of rape, rather than that all those who rape, in whatever situation, must be stopped. Women must be entitled to conduct their sexual relationships in whatever manner they see fit and may enjoy. A woman is entitled to say 'no' to sex at *any* stage in any relationship. A woman is able to control her sexual desires, attractions and feelings and men must be made to do the same. The myth of the highly active and uncontrollable sexual urges of the male are socially constructed and not biologically determined. There is no excuse for rape.

Therefore RAP would first of all state that the strengthening of the rape law must mean that the law does not distinguish between the so-called 'sensible' and 'silly' woman, the latter by implication who 'deserves' to some extent to be raped and the former who does not. The protection of the rape laws should extend to *all* women.

Para 48

RAP agrees with the majority of the Committee that rape should not be made an exception to the general law of evidence. However, we recognise that there is a good case to be made for, under certain circumstances, allowing evidence of a defendant's past conviction for rape where there is little corroborative evidence. But it must be stressed that if the general law of evidence is to apply to rape cases, *under no circumstances* must the victim's past sexual behaviour be brought up in court.

Para 49

Although we recognise the difficulty for juries when deciding between 'the word of the victim and the word of the defendant' (where there is no corroborative evidence), we believe as the Committee suggests that a Judge should no longer instruct the jury that to convict on uncorroborated evidence is dangerous. Instead, for the sake of clarity only, the Judge may instruct the jury that with uncorroborated evidence there is a 'special need for caution'. A stronger instruction suggests that where there is no corroborative evidence a woman is making a frivolous accusation.

Sentencing

Para 46 and 50

RAP strongly believes that imprisonment does not especially deter others from offending, nor does it 'rehabilitate' or 'treat'. And in relation to rape, given that a very small proportion of those who actually commit rape or who are charged with rape are convicted, and those who are convicted tend to be those whose case was 'clear-cut' and exceptional in nature, sentencing for convicted rapists may have little appreciable effect on those acts of rape which evidence suggests are more widespread. What RAP has asked itself is: how can the law emphasise the unacceptability of rape and indecent assault without resorting to excessively long prison sentences for rapists who are not representative of the majority of those who rape? How can sentencing practice protect women from rape, if at all?

RAP recognises that there is a strong argument which claims that despite the fact that prison does not deter, rehabilitate or treat the individual offender, the length of a prison sentence can be used to exemplify the unacceptability of an offence and afford women protection from that particular individual as long as they remain in prison. However, RAP believes that on closer examination these claims are problematic. Firstly, exemplary sentences for rapists can indicate to society that rape is unacceptable but, as mentioned earlier, the rapists who are likely to receive exemplary sentences in current practice are not a representative cross-section of those who rape. Thus, to give exemplary sentences to these people is only to encourage the stereotype of the 'mad rapist'.

The suggestion that long sentences at least keep the individual 'out of circulation' has some weight. However, unless these rapists were never released, they will at some stage leave prison and will almost invariably bring the 'normal' sexual problems of any prisoner released with them into the community. Also, to lock up any group of offenders for excessive periods of time as a *protective* measure is to imprison as protection against *predicted* danger and offences, as well as for punishment against those acts already committed. This has problems as a principle and also in relation to the English 'proportionality rule'.

RAP does not agree with the suggestion, as put by some of the Committee, that there should be a two-tier sentencing system for rape which recognises degrees of rape. For this suggestion defines degrees of rape according to the 'status' of the victim; i.e. whether the woman was 'sensible' or whether she 'had not behaved as sensibly as she should have done' (her assailant was 'going too far'). This definition of rape is totally unacceptable. As stated earlier, a woman has the right to say 'no' to sexual relations at any point in any relationship. Acquaintance with the assailant neither makes the victim the 'cause' of the rape, nor the rape any less serious.

However, RAP does recognise that there are rapes which are characterised by particularly excessive use of threats or violence. RAP believes that those who rape in such a way should be charged with 'aggravated rape', a charge which should *not* be defined by the 'status' of the victim. Although in some instances the use of extreme threats may be difficult to establish, a charge of aggravated rape should in no way emphasise the victim's 'proof of struggle'.

Thus RAP makes the following proposals for sentencing. It must be stressed at this point that the following are guidelines for the principles for sentencing rather than a blueprint for immediate implementation. However, these proposals attempt to ensure as far as possible the protection of women from rape as well as to avoid the dangerous and debilitating effects of long terms of empty custody. It may be the case that these proposals would prove useful as guidelines for the sentencing of all persons, at a time when the use of custody was rare. RAP proposes that:

(a) All sentences of imprisonment should be radically reduced by limitations of judicial power.

(b) Custody (except, possibly, for very short periods) should only be imposed upon those who committed very serious crimes, of which rape is unequivocally one.

(c) If custody were only used for those who had committed very serious crimes, custody as a sentence for rape – in relation to other sentences – would exemplify rape as unacceptable. However, we would also say that for this custody to be exemplary those convicted of rape would have to be a more representative cross-section than those already in prison for rape.

(d) In a situation where all other offences, except the very serious, were not dealt with by custody, we would suggest that for the crime of rape an individual could receive the maximum sentence of five years in custody and for the crime of aggravated rape a maximum sentence of ten years in custody. (These are *arbitrary* figures but are of a *determinate* nature).

(e) Combined with this new sentencing practice is the condition that custody must offer something far more 'positive' than at present prison does. Hence the sentences of five or ten years' maximum would be open to review after a minimum of two and three years respectively had been served. The possible review dates after these initial periods would be *frequent* and *fixed*.

(f) The review of any rape sentence would be carried out by a panel of relevant professionals and community members where representatives would be fifty per cent men and women. To the greatest possible extent the review panel

should be independent from the prison/custodial service and the panel would be accountable to a body other than the prison/custodial service. For example, we would *not* consider the present Parole Board system adequately independent for this purpose.

(g) This review would be carried out within a juridical framework, where the sentenced person had access to legal advice, etc.

(h) At this review, the onus would be upon the Crown to make a case to show why the individual must continue to be detained.

(i) Should the inmate be released before he has served the five or ten years in custody, he will be released on licence to continue for the remainder of the years which he would otherwise have served.

(j) Should the individual not be released before the five or ten year period, he will *automatically* be released at the end of his five or ten year sentence. If the review panel can at this stage still make a case that the individual is a severe risk, this individual may be placed under licence conditions in the community. However, this licence must be of a *finite* length – perhaps two years, to be renewed only if the above review criteria are satisfied.

RAP recognises that the above proposals are only a brief outline of a possible sentencing practice for convicted rapists, where all custodial sentences are shorter and where custody is not so debasing and destructive as at present. And again we would stress that this type of sentencing can only be effective if it is used against a background of real equality of opportunity for women – an equality that offers women economic independence, political, ideological and sexual determination. RAP also hopes that if society were to offer women such equality, the possibility for, and occurrence of rape would markedly diminish.

RAP Sex Offences Group

DEATH OF AN ANARCHIST

Carl Harp, an anarchist and life-sentence prisoner, was found in his cell at Washington State Penitentiary on 5th September, his wrists slashed, hanging from a telephone wire. He died shortly afterwards. A suicide note was found, and the inquest duly returned a suicide verdict. But Harp's wife and a close friend, who have seen the suicide note, have declared it a forgery, and his friends and political comrades are convinced that he was murdered.

About three weeks before he died, Harp had been told by a guard and by a fellow prisoner that guards at the prison had put out a contract on his life. He asked to be transferred to protective custody. But the Sergeant in charge refused to keep him there, and he was transferred to the segregation cell where he died.

The letters Harp wrote shortly before his death (including one to the Second Chance collective in Newham) suggest that he was far from suicidal; he wrote about plans for the next issue of a newsletter he was involved with, about his lawsuit for brutality against the prison authorities, and an appeal that was pending against one of his convictions (he was convicted of murder and rape, but protested his innocence). Another prisoner testified at the inquest that Harp was not suicidal, and insisted that he was murdered for political reasons.

There is said to be a 'hit squad' of guards in the prison known as the Aryan Brotherhood, and fears have been expressed for the lives of other militants held there.

For further information contact: Solidarity Committee, CP2, Succ. La Cite, Montreal, Quebec H2Wm9, Canada.)

Restraints

The inside of a prison cannot effectively be described by anyone unless they have actually served a sentence in one of them. To have served a number of sentences in numerous jails up and down the country gives an ex-prisoner a very acute knowledge of what really goes on and what the effects are on prisoners from a varied number of methods used by the prison authorities for a wide range of reasons. Each prison has the relics of torture and punishment within its cupboards and still being used today. The difference is that in these days the relics are called restraints and are in the main cloaked under the guise of hospital equipment.

The 'restraints' are varied and include the cells which are specially designed to punish. This is not a mistake on my part. The prison hospitals keep a register of the prisoners who are confined under restraint and so do the punishment blocks, and although the two sections of the prison use them ostensibly for different reasons, there is no mistaking the fact that the restraints are punishment for every inmate unfortunate enough to find himself constrained in them.

The padded cell is perhaps the most feared restraint cell of all. It has its very own inherent atmosphere of evil and violence which has been gained since the prison first opened over a hundred years ago. The pads are very thick course materials, usually of a rubberised compound and with a distinctive and unpleasant smell emanating from them. These are lining the walls and the floor of the cell and also the door. From the outside the door is visible only as a large heavy wooden door with huge bolts. Inside this door is another heavy door, usually of iron and behind this are the heavy sections of padding. There is no observation hole in the doors of the padded cells. Instead the warder has to climb a ladder outside the cell until he reaches the ceiling and then by leaning into a specially built cut-out he is able to peer down at the inmate far below. In Wandsworth prison the viewing hole is on the landing above the ground floor, again through a hole in the wall which looks down on the unfortunate victim. The dim lights in a padded cell are usually enmeshed in several layers of steel caging, making them even dimmer. How on earth the victim is supposed to fly to the ceiling in order to get at the light is a mystery. The padded cells in a hospital are an ever ready threat to all the patients in there. It is universally known in prison hospitals that any patient getting 'stroppy' or 'obstructive' will find himself in the 'pads' very quickly. There is no doubt that the pads are used as a punishment rather than a protective device for inmates. I actually experienced the nightmare of the Scrubs hospital padded cell when I was a boy of 15, having been put in the pads because I was making a noise in the ordinary prison cell, shouting that I wanted to go home. It was my very first time in a prison or a cell and they put me in the pads to experience a horror which is with me to this day. It was because I was shouting out with fright for an hour in those pads that they decided to push me further by putting me in the strait jacket.

Padded cells exist today in all the main city prisons and they may be called 'protective' cells, but in fact they are the old-fashioned padded cells used in the main for punishing people in prison.

Another cell used for restraint or/and punishment is the 'restricted' cell. This is a cell without the pads but with the same design of two heavy doors. Inside it is empty of everything except the inevitable urine pot and this is the plastic one which they have to leave in the cell or else you simply use the floor. The restricted cell will usually have a block of concrete or wood cemented into the floor to serve as a table. Nowadays they prefer to put in a clumsy type of pouffe which serves as a table or/and chair.

This cell is known within the jails as the 'strong box' and because of the isolated locations of such cells, they are the ideal choice for the beatings up which take place in the prisons. It is part and parcel of taking a man to these cells that violence of some form takes place en route, from the rough handling to the outright punching and kicking of inmates. The warders know that among the usually large number of them taking a prisoner to such a cell there is very little chance of anyone being identified in any beating up which may take place.

Body belts

The use of physical restraints in the general prisons and borstals is common and routine. A variation on the old type of straitjacket is the body belt. The jacket, which is a Victorian device, is still retained in some jails but has been known to cause deaths, and governors are reluctant to use it. Instead they resort to the body belt which is just as crippling and Victorian as the straitjacket. This device consists of a thick leather belt fastened around the waist, with a handcuff in a ring at each side for a hand. The feet are strapped with thick straps and in some cases larger type metal cuffs. The use of this outrageous device is to render the inmate helpless so that he cannot walk or move his hands or arms. One can imagine the pleasure obtained by a sadistic warder when he has a 'stroppy' prisoner at his mercy and in a strong box or the pads.

It is very rare that a violently insane inmate ever gets put into such contraptions; rather, it is the ordinary prisoner, young or old, who has perhaps had a problem which the authorities will not recognise and as a result has lost his temper and become 'stroppy'.

The Home Office admit that the use of body belts inside the prisons and borstals has become quite widespread. In 1980, 524 men prisoners and 26 women were restricted in these body belts, some just for being stubborn.

The mental torture which accompanies the use of restricted cells or/and body restraints is catastrophic to the inmate. He is automatically deprived of even the basic requirements such as being able to wash himself or to eat from a table. The restricted cells in a lot of cases do not even supply the very basic evil smelling lumpy pouffe; instead the inmate will have to eat his meal off the floor in the best way he can. I myself was given a plastic plate when I was in the pads and this was put on the floor of the cell and I was meant to turn sideways in my straitjacket to eat; you can imagine the horror of seeing some large cockroaches getting to the plate before I could.

Force of numbers

The warders cannot claim that they are in danger from prisoners because every warder has his own truncheon and there are bell points around every part of a prison which will fetch other warders by the hundreds to any incident within seconds. The steps towards giving a 'stroppy prisoner' a hiding are first to isolate him and then to put him inside a virtually soundproof box, make him helpless to ward off blows and set about him. No doubt this happened to the inmate PROSSER recently. It was only his death that has brought about an outcry and caused some of the prison horrors to emerge to the public. I can assure you that there are hundreds of such cases all over the country who have been through the same process with the exception of being killed.

A prisoner who is noted for his violence towards prison staff is usually put into the punishment cell strong box but without the restraints to keep his body immobile. With a man who is very angry and has his full wits about him it would be very difficult for the warders to get him into the body restraints without a lot of officers being injured first.

The easy way for the prison staff is to carry such as man bodily to the strong box and throw him in there and leave him for a few days to cool off; then when the staff have to go in to him they go in force, perhaps twenty of them with the largest warders at the front and the worried ones hovering in the background.

There is never any doubt that the prison staff, be it in the hospital or main prison, have enough strength in number alone to control and carry away the extremely violent prisoner, and there is absolutely no need for the body belts at all. The sensible solution would be to look at the reasons why a man goes berserk in jail.

Constant war

The constant war between prisoners and warders goes on with small wins and losses on either side. A battle of any sort keeps a prisoner from becoming a vegetable, more so in the long term jails. The daily 'fidding' which is part of prison life and the talk back to warders which results in disciplinary reports is all part of keeping one's head above water in a jail and remaining active in mind and retaining the will power and pride to survive what the prisoner sees as an attempt to break him in spirit by the imposition of a regime which is both petty and unnecessary, designed to aggravate him and not reform him. The prisoners' 'talk back' will escalate with the retaliation by warders until the point is reached where both prisoner and warder has to prove who is best and this is where the warders' weapon is the fear and violence of the pads and strong boxes with personal violence thrown in as good measure, while the prisoner can only fight back in any way that he can and this may well entail taking beatings from warders until he is back off the punishment wing and able to find one or two of the warders who had been responsible for what had happened and he will then take his revenge before the horde of other warders can overpower him. This results in one or several warders being injured and the whole business starts all over again. It is a fact that men under restraint have been under the same thing not once but twice, thrice and even more times. If the prisoner has pride and spirit then he will just take what he gets and come back for more. The strong boxes and body belts eventually become a sign to him and other prisoners that he has won the skirmish over the warders and authority because the very finality of the body belts and pads means the staff have done their worst to him – short of beating him to death there is no other course they can take to win. The prison authority have great faith in their instruments of torture and have rarely sought alternative methods. Even in Stamford House boys' remand home at Shepherd's Bush, the staff have the prison type segregation block with the prison cells and the inevitable atmosphere of depression and doom which are inherent in all such blocks. It appears quite impossible for the Home Office to do away with the relics of torture and evil. In the long term modern type jails like Gartree and Long Lartin, the new buildings are designed with one-man cells and dining rooms with proper shower and bath facilities, yet down in the familiar punishment blocks they have the old type strong boxes and in the prison hospital the old type padded cells. Hanging up in a cupboard somewhere will be the inevitable body belts as well. As Martin Wright of the Howard League for Penal Reform says, even recently there was a complaint that a prisoner had been fastened so tightly with the body belt that it left the marks on his limbs for some time afterwards. The RSPCA would not allow the use of such instruments on animals. What happened to the law on humanity?

Michael Francois

Caged Cells

In 1974 the then Home Secretary, Roy Jenkins, introduced the now notorious 'Control Units'. They were abandoned a year later after sustained campaigning by penal reform and civil libertarian groups. They have remained a focus for campaigning ever since, partly in celebration of their closure as a result of public pressure, partly as a safeguard against their reintroduction.

Although RAP took a leading role in the campaigns, it has always warned of the danger of hanging so much on a label that segregation techniques under other names are overlooked. Because the very words 'Control Units' drew, and continue to draw, such fire, it has been possible for the Home Office to extend its use of solitary confinement in a more anonymous fashion in prisons all over the country without arousing a public outcry.

In 1980 PROP published *A Thousand Days of Solitary* by Doug Wakefield, an articulate and eloquent account of the effects of solitary confinement under the most claustrophibic conditions. Now, in November 1981, he is approaching his 1,700th day in isolation. Doug Wakefield's case, and the plight of segregated prisoners generally, has been taken up by Lord Avebury. Submissions are being prepared for the European Court of Human Rights. All the cases involve the use of Prison Rule 43 which authorises a governor to segregate a prisoner "in the interests of good order and discipline". It is an administrative, not an adjudicatory, measure. It requires of the authorities no explanation and allows the prisoner no appeal.

To support these moves PROP has released hitherto unpublished photographs of special isolation cells in half a dozen prisons. In each case the standard locked cell door has been reinforced with a second caged door fitted on the inside. The base of these doors is slightly raised from the floor so that food can be passed in and empty trays and other waste passed out without the need for the prisoner to leave his cell. The cage, being on the inside, inevitably dominates the cell at all times.

The photograph of the caged cell at Wakefield prison shows the name of the prisoner on the card hanging outside the door – Robert Mawdsley. He has been in isolation since July 1978. This is the longest consecutive term of solitary confinement endured by any currently serving prisoner (Doug Wakefield's marathon ordeal was broken by occasional brief periods in a normal prison routine).

secrets

RAP recognises that violent and difficult people are contained in our prisoners and that, because of the failure of successive Governments to provide facilities appropriate to their needs, it has been left to prison staff to accommodate them the best they can. Some staff have resorted to calculated brutality but of many staff it would be fairer to say that they are at their wits' end in trying to find humane means of containment within the options available to them.

We do not doubt that difficult decisions have to be made. What we condemn is the Home Office's practice of conducting its most questionable procedures in secret. These are precisely the procedures of which a democratic society should demand the most openness so that their necessity can be publicly scrutinised. The prison system is riddled with "inspectorates" or "public watchdogs" (the Boards of Visitors); yet no word has ever been breathed, let alone photographs issued, of such cells as those depicted here.

If the Home Office's "Annual Prison Report" were to deal with reality, rather than with the selective issues which it wishes to make public, photographs of caged cells would long ago have been published so as to involve external legal and public opinion in the consideration of the serious problems that they illustrate. For the Home Office to act otherwise demonstrates a defensive attitude which suggests that there is much to conceal. Once again it is a prisoners' organisation that has brought the facts to light.

What also need be questioned are the reasons for the Home Office's continued antipathy towards the Barlinnie Special Unit – the one success story that the British prison system could point to in its treatment of violent and dangerous men. Despite its international reputation, the Barlinnie unit remains a single tiny unit within a Scottish prison, struggling for its very existence while, on both sides of the border, the violent and repressive policies which it has shown to be so unnecessary and counter-productive continue unchecked.

Boards of Visitors
1. The Dogs don't Bark

Throughout October and November there was a lengthy correspondence on Boards of Visitors, much of it very short tempered, in the columns of *The Times*. It was sparked off by the newspaper's report on October 12th of the first annual meeting of the Association of Members of Boards of Visitors (AMBoV). AMBoV is the body which was set up last year despite Home Office opposition, to collectivise and strengthen the position of Boards of Visitors. Undoubtedly its formation was intended as a radical measure, and it was certainly seen as such by many of the more traditional members of Boards who have remained less than enthusiastic or cooperative.

At this inaugural annual meeting of the Association a resolution was passed expressing deepest concern at the unlawful killing of Barry Prosser in Winson Green prison. Active AMBoV members represent the most socially responsible people amongst Boards of Visitors and the extent of their concern is not in question. Nevertheless, because the reporting of the meeting might have given the public the impression that Boards of Visitors really were independent bodies, PROP was prompted to write a letter to *The Times* which opened 'It is all very well for the Boards of Visitors Association to protest at the "apparent wall of silence" about the prison death of Barry Prosser, but what public concern has been expressed by the Winson Green Board of Visitors itself?'

The letter went on to make the point that many of the deaths in prison occur in segregated cells, far from the sight and hearing of the general prison community; precisely the conditions demanding the greatest vigilance by our so-called public watchdogs. PROP's experience was that effective spot checks, at all times of the day or night, were not made on these tucked-away corners of our prisons, and doubt was expressed that any member who made himself a persistent nuisance in this way would remain for long on the Board. The letter ended:

> On paper, Boards of Visitors have these powers as well as the freedom to speak out about their findings. The fact that they do not use them, nor shout at being prevented from using them, demonstrates how successful is the screening process by which the Home Office makes appointments to the Boards, and how inappropriate it is that the Home Office should be any part of that procedure.

The criticisms clearly touched a very raw nerve and drew angry responses from chairmen of several boards, all insisting that their members do make spot checks at all hours and have never been complained of as persistent nuisances. One chairman even wrote of the emphasis placed by Home Office officials, during Boards of Visitors training conferences, on the need for unannounced visits.

We would be more impressed if there were any indication that BoV members extended this training by seeking advice from more clandestine sources on how to go about this task without alerting the bush telegraph that undoubtedly operates from the moment they present themselves at the prison gates. To breach this would be difficult under any circumstances; without a far more suspicious nature than is displayed by the majority of Board members it is impossible. Is it any wonder that the prisoners on the receiving end of these 'unannounced' visits see all the signs of prior warnings?

Searching without finding or finding without exposing do not take us anywhere. Yet, what public exposure has ever been led by Boards of Visitors? Recent years have seen a hugely disproportionate rise in the numbers of black prisoners and a denial to the Rastafarians amongst them of the most basic requirements of their religion; the secret raising, equipping and training of the now notorious MUFTI squads; a steady increase in the use of psychotropic drugs; and an increasing use of caged cell accommodation for the solitary confinement of prisoners, sometimes for years on end. In each case the evidence has been winkled out by external pressure groups and prisoners themselves, sometimes with the subsequent help of Members of Parliament or the press. On such matters the statutory 'watchdogs' have never left their kennels.

Regrettably the correspondence seems to have upset some of the most sympathetic members of AMBoV who clearly object to being tarred with the same brush. Yet there is ample evidence from AMBoV members themselves that the criticism complained of was fairly made. The very first issue of 'AMBoV Quarterly', published in April 1981, had this to say:

> 'Radicalism amongst members of boards is most notable by its absence. The root and branch rejection of the status quo which it implies makes it difficult to imagine a board member sustaining a radical stance for long. In my first acquaintance with one new member of a board, I can recall her shock at some institutional practices, but noted at the time the speed and practice with which other staff and other board members 'educated' her commonsense rejection of institutional norms. The socialisation of the outsider-inside either leads to radical attitudes being moderated, as in the case mentioned, or to the person leaving the field.'

Undoubtedly there are excellent members of Boards of Visitors, especially at those prisons where there is least to hide and least fear of exposure: it is unlikely that Home Office vetting of nominations to the boards operates with equal strictness at all prisons. Yet it must be recognised that being accepted as suitable *by the Home Office* is not exactly a compliment. It can only be seen as a matter for congratulations on those occasions when the Home Office has made a mistake!

RAP's experience, like PROP's, is not encouraging. It is rare indeed for a member of a Board of Visitors to tell us anything useful about anything. Prison officers themselves have been more helpful, as have other groups of prison staff. And time after time the boards have been at the centre of the most shameless cover-ups.

After Parkhurst, Gartree and Hull, there is no shortage of examples of collusion by Boards of Visitors in the concealment of abuses at their prisons. But the actions and inactions of the Wormwood Scrubs Board after the 1979 MUFTI assault are likely to remain unsurpassed for a very long time as the most disgraceful and brazen of all.

On August 31, 1979 the ground floor of Wormwood Scrubs D wing was occupied by prisoners protesting, quite peacefully, at the progressive withdrawal of their customary privileges. So quiet was the demonstration that the wing's own prison officers were sitting amongst the prisoners without incident or ill humour. Then, at 10pm, when prisoners had been led to believe the Governor or his deputy would be visiting them to discuss their complaints, the gates of the wing flew open to admit, instead, a screaming horde of the now notorious MUFTI (Minimum Use of Force Tactical Intervention) squad. Three hundred strong, they tore across the wing and 'restored' order, injuring over fifty prisoners in the process, leaving some of them with serious head wounds.

After the assault the local POA placed a cordon around the wing and for a fortnight prevented access by non-uniformed staff. Family visiting was suspended for the same period. The Board of Visitors, of course, had their statutory right of entry and presumably inspected the wing, though they could all have stayed at home for all the impact that it made.

Within hours of the MUFTI assault the Home Office issued a statement that there had been a disturbance at Wormwood Scrubs but that control had been quickly asserted 'with no injuries to prisoners or staff'. A week later the Home Office amended its story to 'five prisoners with minor injuries'. For a whole month, PROP, RAP, the Irish Prisoners' Aid Committee (PAC) and the Black Prisoners Welfare Scheme insisted that 'between fifty and sixty' prisoners had been hurt. They were denounced as trouble-makers and the secretary of the Wormwood Scrubs described PROP's allegations as 'rubbish'. It was only after four weeks of campaigning, culminating in a press conference at which prisoners' families and lawyers acting for prisoners were presented to journalists, that the Home Office did an about-turn and admitted injuries to 53 prisoners. It took some weeks more before it admitted the existence of a special riot squad – the MUFTI.

Did the Board of Visitors inspect the prison immediately after the attack, or not? If it did not, then its gross dereliction of duty is obvious to everyone. If it did, then its connivance in permitting these Home Office falsehoods to be made public points not only to dereliction of duty but to dishonesty as well. And nine of the Board were magistrates who presumably considered themselves fit to sit in judgement on their fellow citizens!

So much for the Wormwood Scrubs board in its 'public watchdog' role. What about its performance as adjudicators? The events of August 31st were followed by the hearing of hundreds of disciplinary cases, over forty of them by the Board of Visitors. In case after case, prisoners were charged with 'assaulting an unknown officer'. What sort of a charge is that? Even if the prisoner is presumed not to have known who the officer was, one assumes that the officer concerned would be aware!. And, seeing that the Board of Visitors apparently accepted the Home Office statements – to the extent of not feeling it necessary to refute them – how come that prison officers, unknown or otherwise, were assaulted when it had been officially stated that there had been no injuries to prison staff? Later, indeed very much later, the Home Office revealed that eleven prison officers were injured after all. Where they had all been hiding in the meantime, nobody knows – least of all the Board of Visitors, who would presumably not have been obliged to dream up 'unknown' officers if real ones had been available.

After this clowning, some of the Board had the grace to resign, but others remain. There is little sign that the Wormwood Scrubs Board of Visitors under its present chairman, Mrs Jill Jones, is behaving any differently. True, it writes the occasional letter to the papers about conditions at the prison – but always after somebody else. The recent outspoken letter to *The Times* by the Governor of Wormwood Scrubs, describing his prison as 'a penal dustbin', was duly followed by statements of support from Mrs Jones JP and her colleagues. Why just support? If the Board felt that the Governor's outspokenness deserved support, why hadn't it made the same outspoken comments itself and saved the Governor from committing a technical offence in talking to the press? The Governor was going beyond his duty; the Board has got nowhere near its own.

The inadequacy of the prison Boards of Visitors, AMBoV or no AMBoV, remains central to the whole issue of accountability within the penal system. The idea of a board comprising persons from the community local to each prison is a good one. But the boards as they exist are representative of nobody. Their makers are not selected *by* the community, nor are they answerable to it. Selection is by, and answerability is to, the Home Secretary who, as the Minister ultimately responsible for prisons, is quite inappropriately involved in such appointments.

That is one reason why the Board of Visitors is incapable of truly independent scrutiny. Another reason is the obvious incompatibility of its inspectorial and overseeing role with its second, but not secondary, responsibility for adjudicating in serious disciplinary charges against prisoners.

These are the issues that AMBoV must confront. Otherwise, by the image that they are presenting of a more concerned, more radical group of people, they will merely be warding off the pressures for fundamental structural changes in the selection, answerability and procedures of boards. Their first target, in other words, must be themselves.

2. Procedural Incompetence

A recent Home Office research paper* reported a modest penal experiment. The experiment was reported in a research paper rather than as a 'Home Office Research Study' because the research was "of a rather more specialised nature". It is difficult to agree with that description of the recent paper. To understand why, it is necessary first to sketch in the background to the research.

Boards of Visitors are appointed to each prison service establishment in England and Wales. One of their tasks is to hear and adjudicate upon alleged offences against prison discipline. The more minor offences are dealt with by the governor himself. A Board of Visitors has the power to order loss of remission of over six months, and thus its effective power is greater than that of a magistrates' court.

Although broadly modelled on court process, Board of Visitor adjudications differ from court hearings in that the prisoner-defendent is not given legal or other representation or assistance (added to which, any fellow-prisoner he may call as a witness in his defence is liable to the charge of making false and malicious allegations against prison staff). In 1973 a Home Office working party under the chairmanship of Home Office official Mr T.G. Weiler noted that "the prisoner (like the reporting official) is not represented by anyone either to present his case for him or to advise him during the proceedings". The Weiler working party proposed that an experiment be conducted "to test the effect of making assistance available to the prisoner in preparing (as against presenting) his case".

Specifically,

> What we have in mind for this experiment is that in those cases which are going to be referred to the Board for adjudication, the governor. . . should ask [the prisoner] whether he would like the assistance of an officer or assistant governor in preparing his case. . . If the prisoner says that he would like to take advantage of such assistance, we should like to see the prisoner free to ask for a particular officer or assistant governor (subject to his not being involved in the particular proceedings). The member of staff would then make himself available to discuss with him what defence he had it in mind to make and the relevance of the evidence which would be given by the witnesses he had it in mind to call; to help him to complete his statement in answer to the charge; and to discuss with him what points he ought to try to bring out and any plea in mitigation which he may have to make".

No assistance

Now this would seem to constitute a minor and utterly uncontentious experiment to conduct. Proposed by a Home Office Working Group and conducted by the Home Office Research Unit it surely could not be regarded as constituting a daring and radical move threatening to undermine prison authorities. It rather constitutes a modest step towards procedural justice in prison. What in fact happened? The Prison Officers' Association decided it did not wish its members to assist prisoners in the way outlined "even for the purposes of an experiment". The prison governors' branch of the Society of Civil and Public Servants reached the same decision. The experiment was then intended to proceed using a member of the Board of Visitors as advisor to the prisoner. The prisons to be included were Wormwood Scrubs, Wandsworth, Pentonville and Maidstone. However the Wormwood Scrubs Board of Visitors declined to take part unless the proposed innovation itself was modified. They felt that a member of the Board should not assist the prisoner to prepare his case. However, they did express themselves willing to participate in an experiment limited to the Board member explaining to a prisoner beforehand what the adjudication procedures were likely to involve. The Home Office Research Unit acceded to this change in the experiment, only for the Wormwood Scrubs branch of the Prison Officers Association to withdraw its vestigial support. This made it impossible for the experiment to be carried out in the Scrubs. What happened next is somewhat unclear, but the report of the study describes as a setback "the failure to win cooperation from more than one prison to participate even in the modified innovation". The willing prison was Pentonville, and the phrasing surely means that both Wandsworth and Maidstone were unwilling to act as 'experimental' prisons.

Despite the enormously reduced scale of the experiment, two things are clear from its results: the first is that unadvised prisoners exhibit "procedural incompetence" in one way or another, and that the advice given by the Board members did not obviously reduce these errors. (It's scarcely surprising, given the limits on their involvement.) Despite this, both prisoners and participating board members felt that the innovation had helped.

What is the moral of all this? It is surely that the attitudes of prison employees and the pusillanimity of the Home Office Prison Department conspire to prevent testing even the most modest procedural changes in prisons. If the Home Office cannot make its writ run even in the institutions which it purports to control, it means that any pressure for modest change must come from penal reform groups. Perhaps the newly established Prison Reform Trust can take this issue on board? The only vaguely pleasing aspect of the affair is that the whole sad study is published by the Home Office Research Unit (albeit in a publication of "a rather more specialised nature"). But wait. Since that experiment, most Home Office Research Unit staff have been dispersed among operational divisions of the office, so that now the authors of the report will be working within Prison Department itself. The changes of publication of the Boards of Visitors experiment were it to be done now, from within Prison Department, must be regarded as slight. Thus is extinguished the only gleam of light in this sorry business.

KEN PEASE

* D. Smith, C. Austin and J. Ditchfield (1981) Board of Visitor Adjudications. Home Office Research Unit Paper 3, London Home Office. ISBN 0862520045.

Alternatives...

SECOND CHANCE PROJECT

On the 3rd of November 1980, a small group of students, ex-prisoners and ex-mental patients and a couple of local community workers met in a community cafe in the East End of London. All of those present felt that there was a real need for a project which provided practical support, advice and counselling for those up against the law, and for those who were in custody. The group wrote letters to various publishers, bookshops, etc. asking them to donate books and periodicals so that they could be sent in to prisoners free of charge. We had a very good response to this appeal, and we soon had over 1,000 books in stock. The major task now was to contact prisoners. We advertised in local papers and various magazines asking for the relatives of prisoners to contact us. The project is now in touch with over 140 prisoners on a regular basis in prisons such as Long Lartin and Cardiff.

In December 1980 we moved into shop premises that were once occupied by the Newham Alternative Project. The building was in a very poor state of repair. All of the group worked hard to make the place warm and friendly. Local people gave us a carpet, an electric kettle, curtains, and some basic furniture. After a short while we prepared the large upstairs room as a community drop-in centre, where local unemployed people as well as those released from prison or mental hospitals could come and chat, read, or get advice etc. Many of the people that use the drop-in centre are isolated, and often lack various social and life skills. The whole project is based on the notion of self-help and mutual aid, all those who attend are asked to play an active and constructive role in the development of the project and its activity. We hold a collective meeting every Tuesday evening and it's here that the work is allocated, each of the people involved in the centre is asked to chair and take minutes on a rota basis.

The collective felt that it was important to get the building fully used, as we were certain other community based groups and organisations needed a place to hold their meetings and workshops. So at the present time we have the following groups using the Dames Road Centre. Newham Afro Asian Action Group: this group gives advice to black people by black people who are up against the law in some way. Newham Drug Users Counselling and Information Group: this group gives information to drug users and the families about various forms of support and 'cure'. Also Newham Social Services hold two weekly Intermediate Treatment sessions with local kids, and finally East London Women Against Prison hold their weekly meeting and have a small office in the centre.

The whole of the project is maintained by a small group of voluntary workers who come from various social backgrounds. In May 1981, Second Chance published with the support of the National Association for Citizens Advice Bureaux an advice leaflet called prisoners' 'yellow pages'. The aim of this pilot issue was to provide information about various organisations that may be useful to prisoners upon their release from custody. We were able to get the co-operation from all the probation units in London jails to make sure that each discharged prisoner gets a copy. We have now approached various trusts asking them to fund the publishing of regional yellow pages. In our experience many of those discharged from prison find it very difficult to cope with the pressure of daily life.

We ask local people and other volunteers to visit their local courts and find out what's what. We ask them to find out the names of magistrates and how they operate, what type of sentences are given, etc. We ask people to write this up and we now have a file on most of the courts in the London area; we ask people who have been nicked to write up details about the local police stations. We try to get this information out to the local community. We are now in the process of writing to people that live near a prison to ask them to form a local prisoners' support group. Some of us tried this once before, and it did not materialise, but we feel that we have learned a lot from our mistakes and hopefully this time our vision will come to life.

If any RAP members would like to help us then please contact us at 56 Dames Road, London E7 (01-555 0289). Our slogan is: *The only vehicle for prison reform is the Bulldozer!*

BAPP

Brighton Alternatives to Prison Project is a voluntary group working with people living in the Brighton area who are at risk of going to prison, borstal or detention centre or have recently been released from the same.

The Project is run as a collective and is open to anyone who is, or is likely to be, in trouble wth the law and to those concerned with people in trouble. All participation is entirely voluntary. We work in liaison with local statutory and voluntary agencies but we are totally independent of the penal system as such.

We are able to provide a place where problems can be discussed in complete confidence, often wih others who have had similar experiences. We can also arrange legal representation for those due to appear in Court and will appear or write on behalf of members if this will help their case. We also offer a financial advistory service and through our links with other voluntary organisations we have access to accommodation, housing and social security advice.

We aim to be a non-directive organisation in that the members determine policy and make decisions and, as [illegible] as any behaviour is not disruptive and does not hurt [illegible] members can act as they please. They are not asked [illegible] disclose more about themselves than they wish to [illegible]

We do not expect to be able to solve all the prob[illegible] that are brought to us but our aim is to give me[illegible] support for as long and as far as this is possible

BAPP is at present open on Tuesdays from [illegible] at Room 1, The Institute, Queen Square, B[illegible] Tel: 25998.

For further information ring the above [illegible] or contact DICK ALLEN at the PACT [illegible] Tel: 24847.

INSIDE!

"INSIDE" is the title of a season of prison films, sponsored by RAP, to be shown at the National Film Theatre from February 1st to 28th. The programme covers half a century of movie history, starting with *The Big House* (1930) and ending with *A Sense of Freedom* (1981), and includes such classics as *I am a Fugitive from a Chain Gang*, *Birdman from Alcatraz*, and *The Glasshouse*. To accompany the season, RAP is publishing an illustrated booklet, *The Prison Film*, by Mike Nellis and Christopher Hale, (Price £1.50). Here, JANE ROOT looks at the politics of prison movies.

The success of films set in prisons has taken the film world by surprise in the last few years. *McVicar, Brubaker, Escape from Alcatraz, Midnight Express, Stripes* and even the Porridge TV spin off all made more money than even the most optimistic Hollywood mogul would have predicted. *Scum* for instance started off life as a censored TV Play For Today, and as such looked destined for the kind of small, 'documentary' audience that Ken Loach's films usually attract. Instead, three years later *Scum* is still showing, and still making money. It made more money in America in the year of its production than any other British film. A follow up, 'Scrubbers', about a women's borstal is now in preparation.

It isn't immediately obvious why prison films should occupy such a prominent place with the film going public. Most prison films are shot quickly on small budgets. They don't have glamorous locations, rarely involve 'international' stars and usually have very little sex in them.

The plots are far closer to formula than is popular nowadays, and generally revolve around a riot or an escape. In the former, the film follows the build up of tension which leads to the riot, the actual explosion, and then the almost inevitable retribution. No surprises there. In escape movies it is a question of whether or not the prisoner will be successful – something we can frequently guess in the first fifteen minutes or are even told by the publicity.

But this isn't the most interesting aspect of the success of prison films – anyone who pays any attention to the film business won't be surprised to hear that audiences know what they like better than production companies. What is fascinating is that so many people are prepared to pay money for a look inside an institution which governments and government officials seem increasingly concerned to keep quiet, hidden and secret. The paucity of information which journalists, researchers, friends and relatives are able to obtain about control units, prison discipline, work, drugs and overcrowding is in direct contrast to the number of fictional representations of prisons which we are invited to look at.

Both officials and film companies explain this apparent contradiction by summoning up the power of the *deterrent* – the prison film as a tap on the shoulder for those who need it. Alan Clarke who directed Scum excused his excessively brutal and sadistic film to me on these grounds, saying that playing the popular circuits with youth oriented films like Quadrophenia it would 'make youngsters think twice before getting into trouble.' The same kind of thinking probably contributed to the BBC being allowed to film inside Strangeways prison.

Even without going into the absurdities of such simplistic ideas about crime, it is fairly clear that the 'deterrent theory' is an official justification rather than an explanation for the genre's popularity. Moral tracts and edifying homilies have rarely contributed to box office success, and even if they did it would be difficult to see how the glamourised images of McQueen in *Cool Hand Luke* or Redford in *Brubaker* could amount to a threat of what might happen if you misbehave. And, even if that was the intention, the crowds screaming for more action and cheering every move that the 'criminal' heroes in *Scum* or *Midnight Express* made were failing to get the message.

They were, however, appreciating to the full one of the *real* reasons for the success of the genre – the graphic and extreme sadism which is a vital component of most recent prison films. The essential currency of almost all recent examples, and *Scum* and *Midnight Express* in particular, is the careful close-up of a truncheon hitting a head, and the amplified sound of a leather whip on the back. To these torments a new 'interesting' form of brutality is added each time – the crab like hold prisoners place on each other when due to receive punishment in *Brubaker*, for instance.

Apart from the 'law, order and lots of money' crew such as *Scum*'s Clarke, such excesses are frequently vindicated by the liberal cry that since such things happen they should be shown. Dramatic reconstruction in itself, we are told, is a political act, exposing and revealing abominable practises. In some cases such humanitarian explanations are appropriate, as in Mervyn Le Roy's 1932 classic *I Am A Fugitive From A Chain Gang*. While dwelling on the savagery of the Deep South's penal system, this film also helped to change it by contributing to the outlawing of the chain gang system. But as with the 'deterrent' apologia for prison movies, the liberal 'working to change it' explanations don't help us in understanding why so many people go to see films about prisons on Saturday nights. Neither do they adequately disguise the simple advertising ploys of films like *Penitentiary* which proclaims itself to be 'raw, brutal, realistic' on posters, a phrase which could have equally well been used for *Scum* or *Midnight Express*.

I am a Fugitive from a Chain Gang
Director Mervyn LeRoy (1932)
Paul Muni as Jim Allen

But prison films are not only the cinematic equivalent of paperback books about death camps. In his justly famous article on gangster films, Robert Warshow wrote: "the gangster is the 'no' to the great American 'yes' which is stamped so big over our official culture and yet has so little to do with the way we really feel about our lives." Perhaps in addition to providing the explicit violence which audiences seem to enjoy so much, prison films show us areas of life normally excluded from commercially produced film?

In its purest form the prison film encourages us to identify with violent revolt against authority. We watch the prison guards move from minor inhumanities to terrible punishments, from inedible food to appalling physical assaults. We are encouraged to identify with our hero, to suffer with him, and finally after the pressure has become almost unbearable . . . to revolt.

It is the detailed and cathartic identification with the mechanisms of revolt which, I suspect, makes the prison film so popular. What other kinds of films offer the possibility of cheering as the barricades go up? Could it be this which attracted the audiences, particularly the young ones, to the film, rather than the director's 'deterrent'?

It has often been commented that the only places where one sees the working class at the cinema is in the audience, involved in crime, or safely sanitised by time and space, as in the Western. In the prison film the population is made up of workers — criminals, certainly, but clearly contemporary, and in many films clearly realistic. In films like *Scum* you get closer to seeing a cross section of young British working class males than in many films which deliberately set out to show us just that.

Furthermore, the enemy against whom the barricades are so vigorously erected are shown, not just as individuals to be hated for their personalities, but also as people who must be distrusted because of their position of social control, their membership of a uniformed caste. Often in the early stages of the film we are encouraged to feel sympathetic to certain, usually young, prison guards. Later we are shown them brutalised by the system they work for.

Sometimes the implicit radicalism of this microcosm of society, with class ranged against agents of the state, is made obvious — as in *Mean Machine* where Burt Reynolds' football team thrashes the guards side in the annual match by using every dirty trick in the book. The prison governor, for whose benefit this display is mounted, is a thinly disguised Nixon lookalike, complete with tape recorder.

And yet, despite all of the emphasis on enjoying the hero's flouting of authority, the prison movie is ultimately structured around the presentation and *destruction* of revolt. We are encouraged to participate, if only mentally, in the thwarting of the guards for the first part of the film. After that, however, we are tutored that the prisoner doesn't escape — that riots are *always* followed by violent retribution. We are offered possibilities, and then the possibilities are foreclosed.

Symbolically this denial of options is represented by the defining characteristic of any prison — its wall. The prison wall creates an 'enclave of barbarity' separated from the outside world. As well as creating interest in this separate world, the wall effectively ensures that no prison riot however furious, ever becomes a revolution. Without that outer wall being broken the prison riot stays a safe enough subject for Hollywood to tackle and manipulate without there being any danger of the film industry supporting, or seeming to support, the idea of revolt in the real world.

In *Attica*, a real prison riot film, the walls are breached, if only theoretically, by the prisoners' astute use of the media to make their demands known to the world. That, though, is a possibility which never occurs in prison films, where the outside world often just doesn't exist. We are left waiting for the inevitable clampdown, which when it comes is just a continuation of the earlier violence although often more abstracted through greater tension and tighter close-ups. If you've enjoyed the sadism up till now it will continue to be fun.

Other films have more complex methods of accomplishing the same containment of emotion. In *Brubaker* Redford reveals himself as the new governor there to introduce a more liberal regime. *Mean Machine* has Reynolds deciding not to escape when there is the chance.

Riot in Cell Block 11
Director Don Siegel (1954)
Riot Scene — filmed in Folsom Prison

The same structure of options offered and then withdrawn is in operation in the relationships between the prisoners. Like many other recent films of different genres, prison movies delight in showing the strict but glamorous codes of an all-male society where strength, honour and a brutal form of masculine friendship are acted out. In many cases this world is explained for us through the eyes of a new boy, who starting off lost and confused, is taught the ropes by an old timer. Eventually he excels himself and gains admission to the prestigious group, or actually comes to dominate it. We cheer from the stalls, as we, through him, are admitted to the world of real men. Of course, being inside doesn't give men much choice about rejecting women. But the 'rites of passage' sub-plots of prison movies make the all male world into something almost worth giving up the world *for*. They take the tendency of seventies 'buddy films' like Butch Cassidy to turn women into peripheral bores to its logical extreme by making them almost entirely absent.

Unlike westerns and 'road movie' buddy films, however, prison movies do not exclude the logical extension of the buddy film, homosexuality, and indeed give it a powerful place. The sex that is shown, however, is stripped of all warmth and eroticism and becomes the final indignity, the intimately unacceptable humiliation. It is this which causes the young boy to kill himself in *Scum*, while in *Midnight Express* it is Billy Hayes' impending rape by a Turkish guard that forces him to the final act of strength which brings about his escape.

This didn't happen to the real Billy Hayes, on whose true story the film is based. He did, however, have homosexual relationships with other prisoners, including the Swede to whom he so manfully shakes his head in *Midnight Express*, and he claims it was this which kept him sane. The film could have shown this, and indeed *should* have done if it was seriously trying to be the true story that it claimed itself to be. But as with the wider question of the depiction of revolt, the prison movie operates by refusing to tackle the opportunities the material offers, although by exclusion from the film in this case. Raw, brutal and realistic!

Jane Root

A different version of this article appeared in the Leveller *magazine.*

Disgruntled Guards

When the May Inquiry was set up in November 1978, its purpose was to halt what the then Home Secretary described as the "anarchy in the prisons". The "anarchy" had been created, in particular, by the industrial action of prison officers who were waging an increasingly militant and disruptive campaign inside the prisons. While concern about pay and conditions were the most obvious and visible aspects of their campaign, the industrial action was, more importantly, also about the attempt to re-establish their authority inside, an authority which appeared to them to have been eroded over the years by social workers, probation officers and even prison governors. In attempting to achieve this goal, the prison officers came into conflict with prisoners, governors, Prison Department officials and outsiders brought in to perform specialist tasks within the prison system. There was even conflict and splits within their own union, the Prison Officers' Association. When May reported in October 1979, the publication was met with great bitterness and disappointment by the rank-and-file prison officers and also by their spokesmen. Subsequently, a second period of industrial action occured from October to December 1980. This ended on January 13th this year when the P.O.A. Executive instructed its members to suspend the overtime ban which had been in operation since the previous October. This followed the Executive's acceptance in principle of a new Home Office package deal. The Executive's plans, however, were pulled up short when officers at Hull, Brixton, Wormwood Scrubs, Strangeways, Norwich, Cardiff and Exeter prisons defied the order to return to work. Finally, the prison officers did return to work, but not before a High Court injunction was gained which ordered the Association's members to resume the ban on the grounds that the Executive had acted illegally by unilaterally ordering a return to work. As the spring edition of *The Abolitionist* concluded "for the time being the militants in the P.O.A. appear to have been outmanouvered".

While, on the surface, that might have been the case, within the ranks of the P.O.A. the bitterness and acrimony still linger on. The latest editions of the P.O.A. Magazine provide some interesting and important insights into not only the continuing struggle within the P.O.A. between different groups, but also their antagonism towards the Home Office in general and the Prison Department in particular. For example, the jottings from Grendon and Springhill Prisons in the July 1981 edition emphasised this continuing disaffection within the ranks:

> Our chairman and secretary have just returned from Annual Conference delighted with the way the Conference ran. At last it seems that at least at delegate level we are united in our resolve not to stand by idle whilst our pay, conditions of service and our future in general are eroded by the employers and the faceless wonders in Whitehall. The sooner they realise that the jobs of a prison officer can NOT be done by men holding umbrellas and briefcases or sitting in warm offices surrounded by pastel shades of telephones the better the service is going to be. . . We are sure that with unity in our association we can succeed otherwise our future is very gloomy.

In the April edition of the magazine, the antagonism of the rank-and-file towards the P.O.A. executive was also evident. Resolutions from the various branches for the annual conference included 12 censure motions towards the National Executive Committee for various matters arising from the prison officers' industrial action. These motions included one from the Wandsworth branch which desired that:

> a vote of *no confidence* be recorded against the National Executive Committee for (a) their failure to communicate their considered opinion with regard to non-achievement of arbitration by industrial action to the membership prior to the Special Delegate Conference, December 1980; (b) their lack of leadership during the Special Delegate Conference of December 1980 by failing to advise on the continuation of industrial action pursuant to arbitration.

In the jottings in the same issue there were notes from Gloucester and Maidstone bitterly criticising the role of the N.E.C. in the industrial action. As the Maidstone notes commented:

> At a recent Branch Meeting held to discuss the action taken by the N.E.C. in cancelling the industrial action, uproar broke out and several members left in disgust. All confidence in the N.E.C. is disappearing fast and urgent action is now required by them to bring some sense of unity back.

Other motions to the Annual Conference were also concerned with industrial relations but specifically desired that the Association adopt a more "professional" approach to the subject. A motion from Manchester, for example, argued that the "N.E.C. shall involve themselves more with the T.U.C. in areas of dispute". Motions from Bristol, Bedford and Stoke Heath also demanded that accredited branch officials should be encouraged by the Association to "attend courses in industrial relations and negotiating procedures". Finally, there were motions calling for the P.O.A. to have a representative in the House of Commons and for the use of professional public relations people.

These editions of the magazine were also concerned with other important day-to-day issues which affected the prison officers. Thus, the Manchester branch complained about the overcrowding in the jail and the problems that this caused:

> Once more the establishment is bursting at the seams, the overcrowding is as bad now as it was before we started industrial action. No-one now appears interested in the "poor prisoner" once more having to share his cell. Let us all hope that Annual Conference supports the many proposals submitted by branches in an effort to reduce overcrowding.

The April '81 edition also contained jottings from Winson Green which commented on the Barry Prosser case. The jottings described how a senior prison official had been acquitted by the Birmingham Stipendiary Magistrate over "the death of an inmate". It then went on to support the verdict of the magistrate, and concluded that "needless to say, to a man, we are all overjoyed". The Director of Public Prosecution has since decided that there is a case to answer against three prison officers. Nevertheless the expression of such sentiments does throw up more general questions about the role of the main body of prison officers in disassociating themselves when serious abuses are alleged to have occured inside the walls. Like the police, while there is much talk about 'bad apples' in the O.K. prison officers barrel, it seems that the barrel is more interested in being contaminated than in discharging its poisoned contents. It should be remembered that after the Hull riot in 1976, the police officer responsible for the state's inquiry into what occurred, went on record as saying that it was the hardest inquiry that he had ever undertaken in his career. Obstacles suddenly appeared in his way,

information was minimal, prisoners were without warning transferred just before he arrived to interview them, both he and his family were abused. One wonders just how serious the prison officers are in bringing those within their ranks, who allegedly commit abuses, to justice, and to make them accountable in a court of law for their actions.

The controversy surrounding different aspects of prison medicine is also represented in the magazine's pages. The June 1981 edition, for example, contains a letter from a prison hospital officer which clearly indicates that things are not well in that area of the prison medical service. The officer firstly argues that it has long been evident that there has been a need for the formation of a hospital officers association under the auspices of the P.O.A. He points out that at present the prison service is not even getting prison officers to apply to become Hospital Officers. As he sees it "the service at present is totally reliant on staff doing detached duty to support the stations that are existing on a day-to-day basis where staff are concerned. There is an air of despondency which needs to be lifted; already the cracks are appearing in a disillusioned hospital staff". Amongst the interventions which the officer recommends is the drawing up of a code of practice, the achievement of a realistic training programme, having a job description which is a true revelation of what is really done, and to be represented at P.O.A. meetings on hospital matters.

The P.O.A. magazines provide some important and illuminating insights into how rank-and-file prison officers see the current state of the prisons. In general, they don't make for optimistic reading. As the prison crisis has deepened so the prison officers have felt beleagured and misunderstood by those outside the prison service and let-down and betrayed by those government officials responsible for the internal running of it. While there are splits within the ranks, there is also a strong sense of solidarity arising from seeing themselves isolated in this way.

From this point of view, the ultimate losers are the prisoners. It is they who are at the sharp-end of the anger and acrimony that the rank-and-file officers feel. Precisely because of this, the backlash from the prisoners, themselves frustrated and pushed beyond breaking point, could be serious and bloody, resulting in serious injury or death. Given the present state of Britain's prisons, such a notion is neither highly fanciful nor luridly speculative. For the moment, the road to Attica remains a short one.

Joe Sim*

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Short, Sharp, Shock

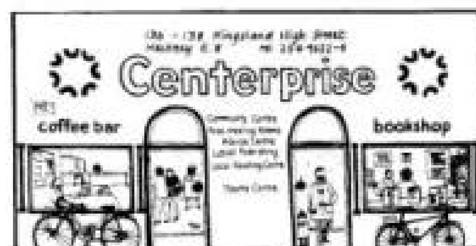
We have received the following statement from a former inmate of Aldington detention centre in Surrey, who has asked us not to publish his name. The incidents he describes took place in February 1981.

At reception I was made to run at full speed up five to six stairs into a corridor outside the house office, where I had to stand to attention on a mat. Suddenly an officer gave me an almighty punch in the stomach and said "say sir", which I did angrily. He then hit me round the head with such force that my head hit the door. He next ordered me to stand up straight and say "Sir". I stood up straight and made no reply. He then again hit me in the stomach and again told me to say "Sir". I made no reply and was once again hit in the stomach but fortunately had 'tensed' myself in preparation. Another officer then came out of the house office and approached me and said "Say Sir!" I again made no reply. He then punched me four or five times in the chest and said "Say Sir!" I replied "Sir". The first officer to assault me then hit me round the head and told me to run up to the officer standing in the corridor, to turn left and to go into the reception office. As I ran up and turned I was kicked from the rear into the office by the officer standing in the middle of the corridor. I lost my balance through the kick and stopped myself from falling by using the desk. The Officer standing by the filing cabinet then ordered me to get off the desk as I was trying to lift myself off it. This I did and was told to empty my pockets. I pulled out a comb from my pocket and was told to strip. When I placed the comb on the desk the officer sitting at it picked up the comb and threw it behind him. A short while after I was ordered to pick up the comb which way lying on the floor under the chair by his feet. As I bent down to retrieve it he stamped on my hand. I was then told to run up three stairs to an open door, to enter, have a bath and be out in two minutes. I came out in about 1½ minutes as I was afraid of again being assaulted. I was then given clothes and accompanied to a dormitory.

During my period of detention I was on one occasion severely pinched by an officer for apparently leaning against a wall. I also have direct knowledge of inmates found with cigarettes being forced to eat them, of boys dodging showers being subjected to prolonged cold showers applying a heavy wire brush to them. I also took great exception to the prevalent habit of officers administering summary punishments.

CENTERPRISE, 136/8 Kingsland High Street, Hackney, London E.8.
Centerprise in London's East End is a community project organised around a coffee bar and a bookshop. It does not see itself as a radical alternative to prisons' specificially — its facilities are open to everyone. In the special 'RAP on Prisons' number of *Christian Action Journal* we pointed out that what such projects do is, in fact, to make the 'community' that penal reformers are always talking about somewhat more real.

Centerprise has been running for ten years offering a place for people to meet, seek advice, educate or organise themselves. It has survived an arson attack by racialists incensed at its multi-racial approach — but it may not survive the present economic crisis. Centerprise *desperately* needs money *now*.



Psychiatric Secure Units

(Psychiatric) Regional Secure Units were recommended *as a matter of urgency* in the Butler Committee's 'Interim Report' of April 1974 and the Government announced that £14,000,000 was to be allocated to their creation in every health service region the following July. To date one permanent unit (at St Luke's Hospital, Middlesbrough) and a number of interim units have been opened. These units are a Government priority, and as the cash is being made available in a way that prevents regions diverting it to other purposes we should anticipate secure units as an established feature of the NHS everywhere in the near future. Some will be called 'Intensive Care Units' instead of 'Secure Units' (or 'Medium Secure Units') and some regions will provide several 'district' units rather than one unit for the whole region.

It is argued that psychiatric secure units will have three purposes: –

1) To relieve the 'Special Hospitals' (Broadmoor, Rampton, Moss Side and Park Lane) of gross overcrowding. (This was the main concern of the Butler Committee).
2) To relieve prisons of 'mentally disordered' offenders.
3) To relieve NHS psychiatric units of patients who are difficult to manage in 'Open Wards'.

The Butler Committee estimated a need for 2,000 places: 500 to relieve the Special Hospitals, 500 to relieve prisons and 1,000 for "patients currently in NHS hospitals who need more secure provision than the hospitals can now provide." The Government has made initial provision for half that number, the other 1,000 to be added, "if the need is confirmed by experience".[1]

The Matthew O'Hara Committee[2], of which we are members, is concerned by the stark contrast between the financial priority being given to developing repressive 'control' aspects of psychiatric provision and the lethargy demonstrated in making means available to implement 'community care' facilities over the past twenty years. There has never been an allocated budget for community care. Current Government thinking appears to be that community care should be financed out of savings by the NHS[3] whereas security requires a positive investment of funds. We believe that the attention being focused on 'security' will divert attention from the need for community care policies.

We are particularly concerned that the units *as planned* appear unlikely to reduce the number of patients in Special Hospitals, will increase the number of NHS patients being kept in 'secure conditions', and will be used to extend the imprisonment of offenders beyond the sentence imposed by the courts. We fear that: –

1) *The units will not significantly reduce prison or special hospital numbers, but will increase the number of 'mental patients' in secure conditions.*

'Safe Until Sound, A Caring Approach to Psychiatric Illness' is a publicity document that the City and Hackney Health Authority will release when (and if) the Government approves its plans for a twelve bed 'Intensive Care Unit' at Hackney Hospital. It states bluntly that:
"Most patients will be admitted straight from the community or the existing hospital wards".

The document carefully avoids any statement that the unit will be prepared to accept patients from the Special Hospitals: although it does say it will accept patients who *might* have been sent to Special Hospitals otherwise.

'Safe Until Sound' confirms the suspicious of Larry Gostin (1977) that the NHS hospitals will consider they have "ample numbers of 'troublesome patients' of their own" to fill the beds in secure units. Gostin suggests, in fact, that: –

> 'Given the attitudes of some members of staff in local hospitals, demand for secure beds may continuously increase to meet available supply.'[4]

Parker and Tennent note that discussion about the units 'has always centred on the transfer of patients from NHS hospitals', and so 'the amount of relife they will offer the prison and special hospitals is doubtful.'[5]

2) *The units may be used to isolate 'troublemakers'.*

Psychiatric diagnoses, particularly ones like 'psychopath' or 'personality disorder', do not describe an objective medical condition (as 'diabetes' does, for example), but are labels used by doctors to say what kind of person the patient should be considered to be. Prison doctors and psychiatrists serve the interests of control as well as those of their patients; and the interests of control can often be served by defining refractory prisoners as mentally disturbed, or disatisfied patients as in need of 'intensive care'. This negates the original meaning in terms of protest that the person behaviour had: and legitimates the use of control measures, such as behaviour modifying drugs, as 'treatment'.[6] This does not necessarily mean that doctors or psychiatrists cynically abuse their positions, but rather that their professional ideologies are shaped by the system in which they work. The recent publicity given to the 'psychiatric treatment' of prisoners with Rastafarian beliefs (e.g. Steve Thompson, Abena Simba Tola, Richard 'Cartoon' Campbell)[7] shows what an effective part 'medicine' can play in the containment of dissent within 'total institutions'.

DARTMOOR PRISONER FIGHTS MOVE

Authorities at Dartmoor prison are trying to move one of their inmates, Mr Georges Payen, to Broadmoor. . . .

Mr Payen has been diagnosed as having a personality disorder, but doctors differ about how he should be treated. His history indicates that his problem is not severe, and there is no suggestion that he is now violent or dangerous. . . .

Mr Payen has repeatedly complained that his rights under the prison rules are being infringed. One of the 23 prisons he has been in described him as 'subversive, with a disturbing influence on other patients'.

His solicitor, Mr Alastair Logan, says: 'He is, in fact, a highly intelligent man with a thorough knowledge of the prison rules. He fights for his rights and encourages others to do the same. He nearly drives you mad, however, with his minute and obsessive attention to detail.'

Guardian 7/12/'81

We strongly suspect that the factors that will decide whether a person is admitted to a psychiatric secure unit will not be his or her objective "medical state", let alone their own felt 'needs', but what Goffman describes as 'contingencies'[8], and that the most important contingencies leading to transfer will be that the person is (or would be) a nuisance from the point of view of prison or hospital discipline. Some of the institutional pressures that

will operate are suggested by the following evidence of a Borstal Governor to a House of Commons Committee:

> 'The problem is that the people whose behaviour is very, very disturbed, not at all normal, but not actually sick . . . They tax the professionalism of the staff to the hilt, they are very difficult to handle. They are very prone to make accusations against staff and very quick to manipulate situations.'[9]

Research findings of Dr. C. Treves-Brown on the criteria determining admission to special hospitals support our sceptical view. He found that:

> 'Some patients had very little evidence of psychiatric illness, but were still accepted. The psychiatric differences between the patients who were accepted and those who were rejected were marginal. *Mental state, in other words, was not a significant criterion for admission to a special hospital.* It is much more likely (and here I speculate) that the mental state was used to support or justify a decision made primarily on other grounds.'[10]

3) *The units will be used to extend prison services.*

According to the local newspaper some of the people to be catered for in the Intensive Care Unit in Hackney will be, "people who have committed criminal acts, but come out of prison without receiving psychiatric attention"[11] We note that one of the most vocal advocates of secure units, RAP sponsor Robert Kilroy Silk MP, is particularly concerned about prisoners considered mentally disordered who are released at the end of their sentence rather than being transferred to a psychiatric hospital. He has described it as, "indefensible and immoral", for such persons "to be denied the treatment and care that is their right".[12] We feel the English language is being abused when one speaks of prisoners having a "right" to remain 'locked up against their will after they have completed their sentences!

The development of secure units is partly argued on the 'humanitarian' grounds that 'mentally ill' prisoners should be 'treated' in 'hospital' *instead* of 'punished' in 'prison'. It will be a matter of considerable concern if what in fact happens is that people are first punished in prison, and then have their sentences extended (as in the case of Stephen Thomson) by being 'treated' in a (secure) hospital. Particular concern will attach to cases where a prisoner is nearing the end of his sentence and is transferred to a mental hospital under Section 72 of the 1959 Mental Health Act (which allows for the transfer of prisoners without the safeguards to civil liberteries involved in the procedures for 'sectioning' non-offenders). We endorse the principle expounded by Gostin (1977) and contained in a USA Supreme Court ruling of 1966:–

> 'The supreme court held that, at the end of a penal sentence, if continued detention in hospital is justified, it must be in accordance with the civil procedures applicable to all other persons. The court said that once a prison sentence has lapsed, the person is like all others, and is entitled to the same safeguards against compulsory detention as are available to all other citizens.'[13]

We would, however, point out that the safeguards available to anyone under the present English Mental Health Law are exceptionally weak.

We realise that opinions amongst those who share our (liberal) values vary about the desirability of Psychiatric Secure Units, and have formulated our own concepts in this article in the hope that it will stimulate further discussion.

Andrew Roberts & Tony Ward
Members of the Matthew O'Hara Committee

NOTES & REFERENCES

1. Butler, Lord (Chairman) (1974), *Interim Report of the Committee on Mentally Abnormal Offenders.* Cmnd 5698 Butler, Lord (Chairman) 1975), *Report of the Committee on Mentally Abnormal Offenders.* Cmnd 6244. Chapter 1 (2) £5.2 million was set aside in the first year. £14 million was the figure for total cost published in the *Guardian* 19/7/1974, but by 1981 at least £34 million had been set aside. (*Fourth Report from the Home Affairs Committee: The Prison Service,* 1980-81 HC 412, para 46).
2. As well as raising the issues surrounding Matthew O'Hara's treatment in Pentonville and subsequent death (*The Abolitionist* no. 7, p.8; *Out of Sight: RAP on Prisons,* p.11) the committee campaigns "for civil liberties and community care" in the fields of both penal policy and mental health, thus continuing Matthew's own struggle for mental patients' rights. Our address is: 177, Glenarm Road, London E5 0NB.
3. See *Care in the Community. A Consultative Document on Moving Resources for Care in England* DHSS. July 1981.
4. Gostin, L. (1977) *A Human Condition,* vol. 2. MIND p.142.
5. Parker, E. and Tennent, G., Memorandum in House of Commons Expenditure Committee (1978), *15th Report and Minutes of Evidence: the Reduction of Pressure on the Prison System.*
6. See Owen, T. (1980) 'Prison Drugs: Official Figures Analysed', *The Abolitionist* no. 7 p. 3 and 'Care or Control?', *Christian Action Journal,* Autumn, p. 12.
7. Battersea and Wandsworth Trades Council (1981) *'The Death of Richard "Cartoon" Campbell: Report of the Public Inquiry'.* Stephen Thompson was committed to Rampton in December 1980 under section 72 of the 1959 Mental Health Act: only four days before his six-year prison sentence for armed robbery was due to end. His commitment was on the recommendation of prison doctors, but the public campaign to release him in independent psychiatrists. The Home Office Secretary ordered his release in March 1981. This was the second time that Thomson had been transferred to Rampton and then declared by an independent psychiatrist to be mentally sound. (*The Abolitionist* no. 5, p.3; *Guardian* 31/12/1980, 14/1/1981, 17/3/1981, 23/3/1981; *Socialist Worker* 21/2/1981, 28/3/1981)
   Abbena Simba Tola is a young Rastafarian woman who was released from Holloway in September 1980. She spent months in solitary confinement and on the psychiatric wing there, and she believes this was because of her continuous demands for respect and recognition of her black culture and religion. (*Spare Rib* March 1981, *Hackney Gazette* 27/2/1981, *Hackney People's Press* March 1981)
   The Home Office asked the DHSS to investigate complaints that a disproportionate number of black people are being placed in psychiatric and maximum security hospitals in February 1981. (*Times* 23/2/1981)
8. Goffman, E. (1961), *Asylums.* Penguin, p.126.
9. House of Commons Expenditure Committee (1978), *15th Report and Minutes of Evidence: The Reduction of Pressure on the Prison System,* paragraph 70: evidence Q 1401.
10. Treves-Brown, C. (1976) "Criteria for Admission to Special Hospitals", *Prison Medical Journal* no. 16 (restricted).
11. *Hackney Gazette,* 5/6/1981.
12. *Times* 28/6/1980 "My Criticizes Release of 18 Offenders".
13. Gostin, L. (1977) *A Human Condition,* vol 2. MIND. p.110 – footnote re "Baxtrom v. Herold, 383 US 107 (1966)"
   Note also the example cited by Gostin:–
   "The patient was given a 3-year prison sentence. Two weeks before his expected release with remission he was transferred to Broadmoor Hospital with restrictions. This meant that the restriction order will not lapse for another year. Only then will he be entitled to apply for a tribunal.
   The patient claims that he was transferred because the prison authorities believe he had assaulted a warden; a fact he arduously denies."

Whatever actually happened it is clear that this patient believed his 'medical' treatment in Broadmoor was a covert form of punishment.

Politicians, Judges and the prisons

Penal reformers and their parliamentary spokesmen have so understated the scale of the prison crisis that public debate on this issue has pitched at the irrelevant level of arguing about a reduction of 4,000 to 5,000 in the size of the prison population. Further controversy surrounds proposals to introduce some form of automatic parole or increased remission for short sentence prisoners only. It is a sign of the timidity of the penal reform lobby that even its most radical voices appear as ultra cautious beside the more robust demands of prison governors and prison officers.

Responsibility for this state of affairs goes back a great deal further than the present government. Indeed, to the extent that a Tory Home Secretary is especially inhibited by the hanging and flogging sentiments of the noisiest of his supporters, it could be said that the time for making radical changes in our penal policies was during the previous Labour administration. The excuse for doing nothing, then as now, was the account that has to be taken of the punitive appetite of the general public.

PUBLIC CONFUSION

Undoubtedly the public is greatly disturbed and also greatly confused over the whole law and order issue. On the one hand, and particularly in inner city areas, there is growing concern at the extent of antisocial and frequently violent behaviour. The concern is not lessened by the lecturing of the sociologists that London was a more violent place in Victorian times. Such talk merely irritates city workers, particularly those on jobs like late night transport, who know, without being lectured, that their jobs have become increasingly hazardous over the time scale of their own working lives. They are right to be worried and right to insist that something is done.

On the other hand, this same working population – or, increasingly under the present government, a would-be working population – is fed regular newspaper stories of how soft this country is on law and order and how easy is life behind bars. Over the past few years there has been a stream of articles on golf lessons for prisoners, swimming pools and, of course, the staple diet of the tabloid press, sex, drugs and booze – not to mention the now provenly false story of the rubber inflatable doll!

CLASS IMPRISONMENT

That some rum things do occur in a handful of prisons is undeniable, though the briefest glance at the history of the prisoners and ex-prisoners making money out of these allegations should provide an instant clue. Gentlemen farmers on tax fiddles, bent accountants and solicitors, wheeling and dealing property speculators and slagheap salesmen are scarcely typical prisoners but are that part of the prison population for whom, unless they are too notorious to be offered obvious privileges, a special class of imprisonment is provided.

The word 'class' means precisely that, and these gentler prison regimes, and the immeasurably better parole prospects that go with them, are rarely the lot of the predominantly working class prison population. In other words, the ordinary people of this country – not the hang 'em and flog 'em brigade from the Shires who neither suffer the privations of living in the inner cities nor the consequences, either as perpetrators or victims, of the anti-social behaviour that stems from such conditions – are being conned into a false understanding of this country's record on law and order.

THE WORST RECORD IN EUROPE

The facts are otherwise. We imprison, proportionately, more people than any other country in Europe. Only West Germany is in the same league. We have on average the longest sentences in Europe, which of course is the reason for the size of the prison population. We have the most life sentence prisoners, we imprison more of our young people and, most disturbing of all, the annual rate of increase in the numbers of young people imprisoned is higher, by over 20%, than in any other EEC country.

Whichever way one looks at these figures, they point to a record of harshness and repression which shows that, whatever else is wrong with our prisons, it cannot be that we don't have enough of them.

BLAMING THE PUBLIC

The public does not understand this because it does not know it. Whitelaw, if he were serious in selling his declared intentions to reduce the prison population, would have made this the starting point of his appeal instead of blaming the public for his inability to move as fast as he would like. Before him, Merlyn Rees, Jenkins and Callaghan were every bit as bad in this respect. Indeed, in terms of hypocrisy, the three of them were a great deal worse.

To use the public as an excuse is simply an extension of the Tory philosophy that what is wrong with society is the people who are in it: greedy workers, lazy non-workers who won't get on their bikes, teenagers who won't learn the skills, parents who won't control their children – a constant individualisation of the ills of society to divert people from questioning its whole basis and motivation.

A CRISIS THAT GOES BACK FOR YEARS

The crisis of our prison system is nothing new, a point that was made most eloquently in a newspaper article by the Rev Peter Timms, until recently the Governor of Maidstone prison (*Observer* 22/11/80). Explaining that he had lived with crisis throughout his prison career, he said that the breaking point is not now, at a prison population of 45,000, nor was it at the magic figure of 42,000 which Roy Jenkins as Home Secretary identified as the crisis level – and then did nothing about it. It was 10,000 prisoners ago.

Neither from the front nor the back benches has any MP from any party recognised the need for action on anything like that scale. The backbench MP and frequent scourge of the Prison Officers Association who not so long ago told a public meeting that he had carried the torch of penal reform at a considerable cost to his parliamentary career must now reflect that, compared to what prison officers are saying and doing, it is a very damp squib that he has been carting around.

The POA has demanded a reduction of at least 6,000 in prison numbers during the next two years. It is also ironic that the prison officers' dispute at the end of 1980 did more to reduce the prison population and lessen the tension in prisons than all the penal reformers put together. By refusing to admit new prisoners into already overcrowded jails, they forced the population down below 40,000, even including the 3,500 held in police cells as part of the Home Secretary's emergency measures. Of this fall, 55% was caused by magistrates and judges avoiding the use of imprisonment when sentencing; the other 45% by an increase of remands on bail. With the ending of the dispute in February 1981, the judiciary quickly recovered its sentencing zeal and the population figures were back at their crisis level within three months.

RIOT WARNINGS

The warnings now, from prison governors and prison officers, are of the likelihood of an Attica scale riot in one or more of our jails. Attica was the prison in New York State where, in the 1960s, Governor Rockefeller ordered in his statetroopers to regain control — which they did by shooting dead 33 prisoners and 11 prison officers. The danger is, admittedly, desperately close although, even on such a serious matter as this, the public is being seriously confused.

For ten years or more, the Home Office has spared no effort to try and present the prison crisis solely in terms of overcrowding and squalor. The traditional veils of secrecy surrounding the prison system have been lifted to ensure that pictures of the worst conditions in the big city jails have gone onto the television screens in every home. Such propaganda has been shown completely out of context on many occasions, most blatantly after the prison riots or major disturbances at Parkhurst, Albany, Gartree, Hull and Wormwood Scrubs D wing. The impression has been given to the general public, and very successfully given, that overcrowding and Victorian squalor have provoked the riots. Consciously or otherwise, the press continues to feed this erroneous picture of the prison crisis.

Not one of the prisons where really serious disturbances have occurred has ever been even nearly full, let alone overcrowded. All are long term prisons where, as a matter of policy, there is no sharing of cells. Most of them have many empty cells, and in the case of the two most riot prone prisons of all, Gartree and Albany, we are not even talking about old and crumbling buildings. Both were opened in the mid 1960s and their subsequent violent history is the best reply to those who see new jails as the answer to the prison crisis.

DESTRUCTIVE SENTENCES

Riots and overcrowding are the two main strands to the prison crisis, but they are not synonymous. Where they link is in a common cause — the excessive sentencing dispensed by our judges and magistrates. Sentences are far too long, right across the board. In the long term prisons it is the frustration and anger engendered by these destructive sentences that boil over into riots. Throughout the rest of the prison system the consequence is gross overcrowding and degradation, reaching the most squalid conditions of all in the remand prisons, making a mockery of the pretence that a charged man or woman is presumed innocent until found guilty. Over 40% of remand prisoners held in these appalling conditions are in fact subsequently found not guilty or given non-custodial sentences — a disgraceful commentary on the needless extent to which bail is refused.

Judges who, at the highest level of their profession, are prepared to throw a capital city's transport system into chaos, cannot be expected to be rich in commonsense nor to be open to the commonsense pleadings of others. To presume that they will now listen to appeals that they should temper their punitive enthusiasm is to ignore history. The big leap in sentences that is largely the cause of the present crisis took place in the ten years following the introduction of parole as judges discounted the intentions of Parliament by restoring the status quo.

Because the judges and magistrates, as a body, are clearly incapable of listening to reason, it is necessary that Parliament asserts its authority by legislating to reduce the sentencing tariffs operated by the judiciary. That is the only way forward.

THE STEPS THAT ARE NEEDED NOW

Meanwhile, urgent steps are necessary if disaster is to be avoided. If MPs talk about reducing the prison population by 4,000, 5,000 or even 7,000, they are fudging the issue. Our repressive sentencing policy is so out of step with the rest of Europe that this would still leave our position in the European incarceration league virtually unchanged.

Half remission, automatic parole, amnesties: all could make an immediate impact. But they have got to be applied across the board and not just to short term prisoners. Otherwise, by ignoring the most desperate tensions of all, they will provide the spark to ignite the long term prisons and set off the explosions of which the prison governors have warned. Ex-governor Timms, in the *Observer* article already referred to, agrees that "it is not outside reason or commonsense that *all* sentences should be subject to automatic parole after a third has been served."

ISN'T THERE ONE MP WHO WILL SAY IT?

We have got to start thinking in sensible figures. We have got to ask the MPs who are still holding back (all of them) what they think is so odd about our country that makes it reasonable for us to have, proportionately, more people behind bars than France, Luxembourg, Italy, Belgium, Eire or the Netherlands?

To emulate the Dutch we would have to cut our numbers from 45,000 to 11,500. If that is too much for our MPs' imagination to grasp, what about a Belgian equivalent of 23,500, an Italian 27,000 or even a French 36,000? These are all proportionately adjusted 1980 comparisons. We would have to go further to catch up with the French today because of the amnesty which socialist President Mitterand has since given to 5,000 prisoners. But any of these comparisons demonstrate the scope that exists for really drastic reductions.

It is only when we decide to move in such directions that we can hope to introduce sensible regimes for our prisons or acceptable working conditions for those who staff them. To do so is not to go soft on crime, nor would it mean running the risk of more crime. The European countries that have reduced their levels of imprisonment are not more lawless as a result. And in this country, when the prison officers' dispute forced judges and magistrates to be less trigger-happy with their sentencing, the effect on crime was not noticeable at all. In fact it is obvious from experience over many years in many countries that the level or harshness of imprisonment have no bearing whatsoever on the crime rate.

NEW AND BETTER PRISONS?

There is something very distorted about a country's economy when law and order is just about the only growth industry; when new prisons are being built at the same time as schools and hospitals are being closed; when the police and prison services are recruiting while others are being thrown out of work.

Far from our prison system requiring more money to make up for the years when it has been 'starved of resources', we say that it already consumes far too big a share of the

national budget. Squalid Victorian conditions are no argument for new jails. In fact it is a libel on the Victorians to blame them for the overloaded and broken down plumbing and drainage which inevitably results when a later generation crowds three prisoners into cells which were designed, over a hundred years ago, for one. It is not often realised that some of the oldest prisons – Pentonville is one example – had flushing water closets and washbasins in every cell when they were first built.

If our judges and magistrates were to be made to curb their sentencing, and if as a result our prison population is reduced to sensible levels, then we could think in terms of phasing out prisons, not building new ones. We could select the better ones and pull down the others, including most of the modern ones that have been built in the middle of nowhere and make family visiting a whole day, and sometimes an overnight, task.

WILL ANY PARTY DO IT?

For the Labour Party to adopt such policies, and start to explain them to a bewildered public, would be the clearest indication that it intends, when it returns to power, to introduce the socialist measures that alone can provide the economic, social and moral framework to stem, and ultimately reverse, the rising tide of antisocial behaviour which is the inevitable by-product of an increasingly defective society.

Unfortunately, there is little sign that it intends to do any such thing or depart from its traditional role of merely trying to make the present economic system work a bit better and with a little more compassion. In other words, a welfare state response to a system which is increasingly incapable of supporting it. Prison reforms in the other capitalist countries of western Europe have been introduced during conditions of relative and rising prosperity; not at times of crisis. And without a genuinely socialist programme for our troubled country it is difficult to see how crisis can be other than temporarily kept at bay.

Geoff Coggan PROP

(A slightly shortened version of this article first appeared in Labour Herald, *December 11th 1981, under the title 'The Prison Crisis – a perspective for the Labour Party')*

Whitelaw's U-turn

Mr Whitelaw has now abandoned his plan to introduce automatic parole for prisoners serving sentences between 6 months and 3 years, and decided instead to implement Section 47 of the Criminal Law Act 1977, which provides for partially suspended sentences. S. 47 will come into force 'as soon as the necessary preparations can be made'[1], allowing the courts to suspend any fraction from ¼ to ¾ of a sentence of at least 6 months and not more than 2 years. Later, if the Criminal Justice Bill is passed, the minimum length of sentence that can be partially suspended will be reduced to 3 months, and the minimum period that must be served in custody to 28 days.

The main reason for this change of plan is undoubtedly the threat by judges and magistrates that if automatic parole were introduced, they would increase sentence lengths to compensate. RAP warned that this was a likely consequence of the Home Office proposal in our pamphlet, *Parole Reviewed*. What we did not anticipate was that the judges would have the effrontery to declare their intentions in advance.

Instead of drawing the conclusion, as RAP urged, that the judiciary could not be relied upon to co-operate in reducing the prison population and that its powers must be curbed by legislation, the Government has chosen to give the courts an *additional* power, which the Home Office itself fears will 'be used to give offenders "a taste of imprisonment" in cases where at present the courts would impose a fully suspended sentence or a non-custodial sentence'[2].

To see how unlikely it is that the courts will apply the new measure correctly, one has only to consider the soul-searching that judges are expected to go through before imposing a partially suspended sentence. They should ask themselves:

1) If I had no power to impose a suspended sentence, how long a prison sentence (if any) would I impose?
2) Is this a case where the whole sentence could be suspended?
3) If not, would it be appropriate to suspend part of the sentence? and if so, what part?

The experience of ordinary suspended sentences shows that judges (and especially magistrates) are incapable of performing even the first part of this feat of mental gymnastics (the test laid down in *R v. O'Keefe*, 1969). They use suspended sentences as alternatives to non-custodial penalties, and they impose longer terms than they would have done had they not had the power to suspend. Taking into account the fact that about one in three suspended sentences are activated, it is very doubtful whether the suspended sentence has reduced the prison population at all[3]. To expect the partially suspended sentence to have such an effect is to hope for something close to a miracle.

> ***'The condition of the prisons . . . is an unforgivable crime. The sentencing practice of the judiciary is out of all proportion and justice, as barbaric as the prisons themselves. Mr Whitelaw knows that the only effective answer is to take powers to reduce the sentences. It needs to be done not only as a crisis measure but also as a policy for the future, if Britain is not to remain the most vindictively penal society in Western Europe. A bleeding heart does not make a reforming Home Secretary. Some guts are required.'***
> Peter Jenkins, *The Guardian*, 16/12/'81.

The Government pins its hopes on 'the present climate of judicial opinion, with the lead given by the Court of Appeal towards reducing the use of imprisonment'[4]. Why this should make partially suspended sentences more effective is difficult to understand. The emphasis in the Court of Appeal's decisions has been not on *fewer* prison sentences but on shorter ones: what it has been saying is that judges should consider, in a case where they would have been minded to pass, say, a 6 month sentence, whether one of, say, 2 months would not be sufficient. But why cut a 6 month sentence down to 2 months when you can suspend two thirds of it instead? The natural result of the partially suspended sentence will be to counteract the Court of Appeal's initiative (which has had some effect, though not enough to stop the rise in the prison population) and lead to relatively long, partially suspended, sentences being passed instead of shorter, immediate terms; and a fair proportion of them ultimately being activated.

The Government has rejected the Home Affairs Committee's proposal that:

> If the efforts now being made by the Home Secretary and other parties to change the direction of sentencing policy should fail to bear fruit within a reasonably short time, Parliament should further limit the maximum length of sentences by statutory means

on the ground that it 'doubts whether the sentencing practice of the courts is likely to be significantly influenced by any change in maximum penalties that would be generally acceptable'[5]. Unfortunately this argument, like those against automatic parole, is only too plausible. Even the implementation of the Advisory Council on the Penal System's *Review of Maximum Penalties* would not be 'generally acceptable' to the Tory conference, the right-wing press, or for that matter the people who read it: and as some of the Advisory Council's critics pointed out[6], it is far from certain that its proposals, which are based on existing sentencing practice, would lead to any reduction in imprisonment.

From the Government's point of view, it may well make better political sense to risk the 'Attica' situation of which prison governors have repeatedly warned than to make a serious effort to avert it. It has given itself emergency powers to release prisoners, and if that fails it can always call in the MUFTI squad or the army. And if prisoners or prison officers are killed, well, that will be unfortunate but it can always be used to justify a stiffer dose of repression.

Mr Whitelaw's U-turn means that the strategy of the 'moderate' penal reform groups and the liberal wing of the Home Office, of making ever-so-'modest and sensible' proposals in the hope of appealing to the Home Secretary's better nature, has failed. The only things that now seem likely to have any effect are concerted resistance by prisoners and/or staff, or the election of a government with a radically different approach to 'law and order'. The prospects for the immediate future look as bleak and perilous as the December weather.

NOTES

1. *The Government Reply to the Fourth Report from the Home Affairs Committee, Session 1980-81 HC 412: The Prison Service* (Cmnd. 8446) para. 10.
2. *Review of Parole in England and Wales* para 58.
3. A. E. Bottoms, 'The Suspended Sentence in England', *Br. J. Criminology* vol. 21 no. 1, p. 3.
4. *The Government Reply*, para 10.
5. *Ibid.* recommendation (xii).
6. e.g. Radzinowicz and Hood (1978) *Crim. Law Rev.* 713-24.

BOOKS

Popular Punishment

Ian Taylor,
Law and Order: Arguments for Socialism
Macmillan, £4.95 (pbck).

Ian Taylor has set himself an important task, and he accomplishes most of it fairly well; what he fails to do, unfortunately, is to deal convincingly with penal policy.

He is easily able to show that the issue of 'law and order' was more important in the 1979 election than ever before, and is even more so after the riots; and that the Right's arguments, for all their intellectual weaknesses, address a real problem that is not tackled either in current Labour Party doctrine or in the now outmoded 'new criminology' (of which Taylor was a leading exponent). Now that the riots have shown that Thatcherite policies destroy rather than secure the conditions for social order, he argues the Left must present an effective alternative response to the demands of working class people for protection from street crime, of Black and Asian communities for defence against racial attacks, and of women for freedom from sexual assault and harrassment.

I concur with all of this, and I would not quarrel with the way Taylor applies his arguments to policing. But he seems to me to make a fundamental mistake in supposing that a socialist alternative must include a model of socialist (or at least 'popular' and 'democratic') penal institutions. In this he is radically at odds with the abolitionist position, which, to put it simply, is that the only socialist prison is an empty one.

Taylor is also guilty of a serious non sequitur in jumping from the point that the Left should argue for the "arrest, containment and even punishment" of rapists and racists, to the conclusion that it should seek to meet all "popular demands for retribution and social defence", whether justified or not. In fact he tries to dissolve the question of justification altogether: once the courts have been transformed (in ways Taylor scarcely specifies) "into institutions that at least suggest that justice is popular. . . then abstract utilitarian debates about the criteria in offences which ought to 'justify' punishment will become practical matters receiving some form of popular adjudication." (p.119) This strikes me as irresponsible evasion, combining the crudest conception of democracy (the people are always right) with the crudest form of retributivism (where the justice of punishment is guaged by some kind of intution). Taylor thinks that 'popular justice' will be appreciably less harsh than the existing sort, but his evidence for this is flimsy: he cites the experience of the Portugese revolution — not a very close parallel — and a quite irrelevant study by Moorhouse and Chamberlain of attitudes to squatting and factory occupations.

The quoted passage comes from Taylor's discussion of youth crime, and leads to a proposal for an expansion of the community home system as a form of containment and control to replace both borstals and detention centres (which he considers archaic and militaristic) and 'intermediate treatment' (condemned as soft and middle-class). He ignores both the evidence that far more children are already being placed in such institutions than could reasonably be considered "in need of care and control" in the terms of the Children and Young Persons Act 1969, and the fact that these instruments of punishment and containment also have to serve as refuges for the battered and neglected. He envisages a regime based on "grounded and mundane criteria of class discipline" and "legitimate and authentic popular punishment" — as opposed to the liberal ethos of 'intermediate treatment', which "confronts the contradiction that the labour market for youth demands self-denial and automatism rather than self-respect." Is "mundane class discipline" supposed to produce automata? It's hard to believe that can be Taylor's idea of an argument for socialism, but he ought to make it clear what he does mean.

II

We come now to Taylor's treatment of the prison system proper. To get a minor grievance out of the way first: although RAP is clearly one of the 'prison movements' mentioned in the text, we're never referred to by name. This may be merely an accidental result of the way the book was cut from a much-longer manuscript, but it is irritating.

Taylor's analysis of the current 'prison crisis' does not offer any new insights, and fails to challenge official accounts on several important points. Both the 'crisis of containment' and the failure of 'training' are linked to overcrowding, without any mention of the fact that the 'training' prisons, where the 'crisis of containment' has been most evident, are not over-crowded. *Strangeways* is hailed, rather optimistically, as 'a final recognition on the part of the Home Office of the impossibility of continuing with existing policies of secrecy'; and Taylor makes the strange remark that 'The increases which have occurred throughout the 1960's and '70s in the numbers of imprisonable offences cannot be allowed to result in proportionate numbers of admissions into prison', when there was, in fact, a *more* than proportionate increase (correlated with rising unemployment) from 1973 to '79.

Taylor quotes, almost in full, the 12 recommendations made in PROP's admirable submission to the May Committee. He would have done very well to have left them as they stood, but instead he tacks on, as if it were something PROP had carelessly forgotten to mention, a proposal for 'democratic assemblies of prisoners and prison officers'. Such an assembly would obviously *not* be democratic, because the proportion of seats to be held by the different interest groups would have to be fixed in advance, and it's inconceivable, in a body with any real powers, that the prisoners could be in a majority. Prisons, by their nature, have to be governed against the will of the majority of the people in them, and a democratic prison is therefore a contradiction in terms. (The nearest thing to it would be a prison accountable to the people — including prisoners' relatives — of the area from which its inmates were drawn.) Taylor should have stuck to PROP's recommendation no.4, which talks of *consultation* with prisoners and others leading to the promulgation of new prison rules.

III

If, as I have argued, the existing penal system cannot be reconstructed in a way that 'prefigures' socialism, what 'arguments for socialism' are possible in the field of penal policy?

The arguments must start, like the PROP document, from a realisation of 'the irrelevance of imprisonment to the serious and growing problems of antisocial behaviour, and the manner in which the prison "debate" is diverting attention from any constructive approach to those problems'. Prisons do contain (and punish) a few people whose presence in the outside world would be truly intolerable, and they provide the ultimate sanction behind the rules of criminal law. But except for those two functions, which necessitate only a small fraction of the present level of incarceration, prison is incapable, in an unequal society, of delivering either just retribution or effective social defence: and to suggest that if it were somehow made 'popular' or 'democratic' it could do so is a diversion.

From this simple premise, the outlines of a policy emerge quite clearly. It makes no sense for Labour to support the building of more prisons, so the only alternative open to it is to reduce the prison population by curtailing the sentencing powers of the courts. By the same means it will be able to ease the 'crisis of containment' resulting from excessive sentencing. It will then be possible to dismantle much of the repressive apparatus used to cope with that crisis, thus making it more difficult for any future government to revert to a 'hard line' strategy. And any party that's seriously committed to civil liberties, accountability and open government will extend those commitments to prisons.

There are some very difficult questions to be faced, particularly with regard to young offenders, but the basics are really quite straightforward — and, in themselves, they won't win a lot of votes. The votes have to be won by convincing people that the only hope of dealing effectively with crime lies not with punishment, but with social policy and, ultimately, with socialism.

Tony Ward

Whither IT?

John Pitts and Toby Robinson,
'Young Offenders' in Lambeth
London Intermediate Treatment Association,
1 Butler Road, Harrow, Middx. £1.

This is both a case study of the way young people in trouble are dealt with in one London borough, and an indictment of the Government proposals that now form Part I of the Criminal Justice Bill. If this became law it would, in Lambeth, 'undermine current good practice within the social services department; it would be formidably expensive; and given current policing practices, it would also be racially discriminatory in its consequences.' The recommendations at the end of the booklet are made on the spirit of RAP's now defunct Young Offenders Group, looking at what can be done *for* young people in need, rather than what should be done *to* those who are caught breaking the law. Its proposals on housing, employment and education could be applied to any inner-city area, and it concludes by calling for a policy of abolition, by which borstals, detention centres, and secure units in community homes would be phased out. (One question it doesn't answer is: if intermediate treatment should be seen as 'a diversionary and decarcerating strategy', what will be its role when there are no custodial institutions to be diverted or decarcerated from?) Recommended for anyone interested in alternatives to flogging.

Measures of Care

F. Martin and K. Murray (eds.)
Children's Hearings
Scottish Academic Press, 1976, £6 (hbk), £3.75 (pbk).

F. Martin, S. J. Fox and K. Murray
Children Out of Court
Scottish Academic Press, 1981, £15 (hbk).

Both these books do the same thing: that is to review the system of Scottish juvenile justice a short time after its inception. One, edited by Martin and Murray, consists of various papers by those working in and around the system. The papers are grouped into five sections. The first deals with the origins, objectives and structure of the system; the second with accounts of its principal elements. The third is mainly concerned with the central element of the new system, the hearing. The fourth looks at the work of a number of agencies upon whose help the hearing may draw. Finally, there is a section of critical and comparative material.

The second book, by Martin, Fox and Murray, is the result of a large empirical research project into the working of the system aimed at being of interest and relevance to both sides of the Atlantic. It is a detailed account of very thorough research into the workings of the Scottish system with material at the end which attempts to fit the work into a broader perspective as well as showing how it fits into some of the American debates in this area. It also has a very complete bibliography of the Children's Hearing System.

What then is this new system that has generated such enormous industry? Its legal foundations are in the Children and Young Persons Act 1968 Part III. Children are brought before the hearing by a reporter if he considers them in need of compulsory measures of care. A child may be in need of 'compulsory measures of care' for a certain number of defined reasons, not all of which have anything to do with committing a criminal offence. Anyone can lay information concerning these to the reporter. A variety of serious cases, again defined, do not come within the scope of the system and can be prosecuted in the ordinary criminal courts. The reporter, who has no need for special qualifications, though most have qualifications in law or social work, has to take note of the information and, if he feels there is need for further action, either to ask the social work department to work with the child and family on a voluntary basis or, if compulsion is needed, to refer the case to a children's hearing. The hearing normally consists of three panel members who are lay volunteers, the reporter, the child and family and a representative from the social work department. The panel members are lay volunteers appointed by the Secretary of State from a list nominated by the Children's Panels Advisory Committee. The panel may hear the case only if the child and parents accept the grounds for referral — if not the case can only go ahead if a sheriff finds the grounds proved. By and large most referrals are accepted. The hearing then considers the case, which is supposed to be in the nature of a discussion and exchange of information of all parties, and disposes of it only 'in the best interests of the child'. It can discharge the referral, place the child under a supervision order at home, or recommend it for compulsory residential treatment. There is a limited right of appeal to a court but most cases begin and end in the hearing.

As can be seen the most significant part of the system is its desire to take the child out of the normal or criminal system and work 'for its best interests' and not take into account retribution, deterrence etc. This has the paradoxical consequence that a child can be subjected to measures of compulsory custodial treatment without having committed a criminal offence. Thus something like punishment seems to creep back into the system. This point seems to me to illustrate the dichotomies around which both these books swing. How can one at the same time avoid the pitfalls of legalism and the dangers of a system based upon welfare considerations? The second book under discussion tends to steer a neutral line between the two, in the end pointing to ways of improving the system with some safeguards that can be provided by the legalistic model as a corrective to the welfare model. In this respect the book is very useful, for it does not denounce the system root and branch but suggests corrections based on its thorough research findings, and in so doing gives a reasoned defence of the system against those who would want to go back, more and more, to the criminal law. The present system, whatever its defects, is far more humane than what went before it, and, in the absence of anything new, should be defended.

However the book does, it seems to me, effectively foreclose the question of whether we can go anywhere new from here. For in its use of American material showing a move back to legalism it seems to imply that there is always an oscillation between these two points and that the best we can do is to seek a more or less stable compromise between them. Both systems are in fact unstable. The legalistic system which bases its rationality and justice on its universal mode of reasoning not only fails to recognise the individual except as an abstract concept, but it degenerates into the subjectivities of the judge. The welfare system ties its rationality and justice to its 'scientific rationality'. But this forgets the universal aspects and lays open the individual to the 'objective' knowledge of the few. In the end both systems come to the same thing — the power of a few over those who can do nothing about it. Any compromise is likely to be about redefining the power relations of the various professional groups fighting over the carcass of the silent and powerless defender.

Is there a way out of this impasse? There is if we take seriously the lay element in the system. Within that, notwithstanding the problems of class composition, incorporation and the like, are seeds which can be cultivated into a popular justice. The trouble is that this will not work without a society which is itself based on popular democratic principles.

Zenon Bankowski

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Screws on Wheels

Hilary Walker and Bill Beaumont,
Probation Work: Critical Theory and Socialist Practice
Basil Blackwell, 1981, £5.50 (pbk).

In this book Walker and Beaumont look at the role and nature of the probation service/officer. They begin their analysis by examining the problems and conflicts that most probation officers will confront in the daily execution of their job. On one level, probation officers are asked to undertake responsibility for offenders in different settings. Probation officers provide Social Enquiry Reports for the Courts, 'through-care' in prisons, supervision for those on probation orders and after-care for those leaving penal institutions. These superficially different roles require probation officers to act as court officials, social case-workers and 'befriender' and because of this there may be conflict between roles as well as between specific activities and the political views of individual probation officers.

On another level there is a formal assumption that underpins all facets of probation work, which is that the needs of the offender and society are synonymous. But this consensus model fails to recognise that in reality probation officers may find that the interests of their clients and of society are far from complementary.

Walker and Beaumont challenge the so-called 'radical critique' of probation work which locates the major conflict for the service between the 'care' and 'control' of offenders. The radical critics view these two functions as mutually exclusive. They see 'care' as requiring client focused casework, which accepts that crime is a social phenomenon and 'control' as repressive, asocial in its understanding of crime and concentrating on 'individual pathology'. To avoid becoming 'screws on wheels' radical critics claim that the most effective and legitimate role for the probation service is the social work role.

But Walker and Beaumont feel that this critique has clear shortcomings. Firstly, the radical movement was 'appropriated as a means of improving and refreshing the social services, instead of questioning their existence and function'.* Secondly, this critique fails to analyse the function of the State and its institutions and to show, with special reference to the probation service, how they inter-relate. Because of this, Walker and Beaumont go on to develop a Marxist critique of probation work, which is undoubtedly an important and new contribution to any analysis of the function of probation work in an increasingly repressive society. The authors show that historically the State has developed as 'protector' of specific class interests but necessarily must secure legitimacy and consent for its operation in a 'democracy'. To this end (as a response to class struggle and capital's need for a healthy and available work force), welfare provision has played a key role. It appears 'caring', it gives the disaffected a legitimate stake in society and it educates and defines the appropriate roles of welfare recipients.

Because most functions of probation work are secondary adjuncts to the legal process, the operational definitions of the service are determined by its relationship to the juridical process. But in tandem, it is important for the service to develop an air of detached professionalism and a social welfare role to mask and legitimate the true nature of the services' primary function. Just as the State must strike a 'balance' between consent and coercion so the probation service, as agent of the State, embodies the consent/coercion modes. Thus, say Walker and Beaumont, the radical critics are wrong. 'Care' and 'control' are *not* different and divisible functions of the probation service. They serve one and the same purpose but do so through different modes.

Again, the authors break new ground when they attempt to synthesise theory and practice. Radical critics tended to stress the need for the 'radical method' but the authors reject this approach. They argue for a strategy of resistance and defence. In general, resistance of correctionalist perspectives underlying much probation work; resistance to State forms whilst recognising their strength and significance; and honesty and openness when working with clients and a clear denial of the liberal equality of client/officer relationships.

Walker and Beaumont examine six areas of progressive practice which are:- (i) defending clients against the criminal justice system; using minimum breaches of probation and resisting insertion of additional conditions within probation orders; (ii) assisting and helping clients with problems defined *by them*; (iii) education work — a two-way process where officer and client learn from each other and share knowledge; (iv) developing useful services; (v) encouraging community involvement and inter-agency cooperation which does not increase surveillance over clients; (vi) campaigning action to support or initiate, with service information, appropriate debates. Walker and Beaumont also go on to examine in some detail how and in what way strategy may have to be fought for within the service itself.

As I hope this review has shown, this is a fascinating book which takes a realistic and intelligent look at the functional and technical problems facing the probation service today. This is one of the most stimulating books I have read for a long time — although it makes me marvel that people stay in the probation service at all!

Jill Box-Grainger

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