THE ABOLITIONIST

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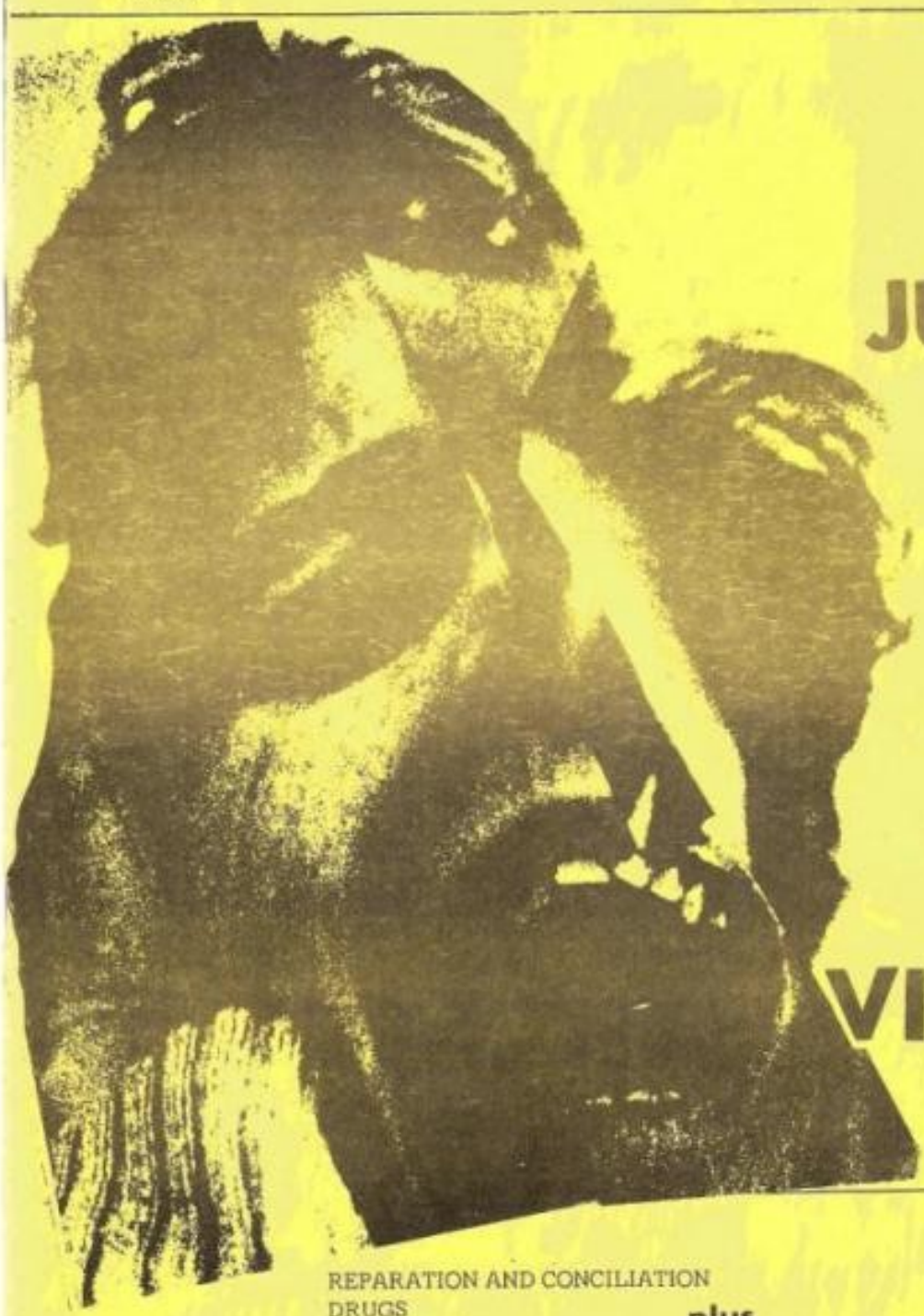

JUSTICE FOR VICTIMS

REPARATION AND CONCILIATION
DRUGS
STRATEGIES
LIFERS
PRISON DEATHS
LABOUR PARTY
HOWARD LEAGUE

plus

prison briefing

80p

Radical Alternatives to Prison

1. 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 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.

2. 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.

3. 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.

4. 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.

5. 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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If a radical approach to criminal justice is to appeal to people beyond the 'ghetto' of left-wing criminologists and would-be penal reformers, it must be seen to take account of the interests of victims of crime (and people who are afraid of becoming victims) as well as those of offenders. The problem of how to reconcile those conflicting interests is explored in this issue on two levels. One group of articles considers attempts to reconcile individual offenders and victims, while other contributors consider how an abolitionist strategy can serve both the interests of prisoners and those of the working class from which the majority both of convicted offenders and their victims are drawn. We hope that these ideas will be of interest to everyone looking for an alternative to present 'law and order' policies. We have confined our attention in this issue to the sort of individual acts against the person or property of others which are usually dealt with in the criminal courts, but we have not forgotten that there are other kinds of lawbreaking (for example by employers in factories) which cause equal or greater suffering. How, if at all, the criminal justice system can be used effectively in the fight against these sorts of crime raises an interesting set of questions for future discussion.

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LAME DUCKS

Two sets of figures were published in September which demonstrate convincingly – in case any readers of this journal are not already convinced – the bankruptcy of the Government's 'law and order' policies. The first set is contained in a Cabinet paper leaked to *The Times* (3.9.82). In it the Home Office predicts that 'serious' crime per head of population will rise by a third over the next 10 years. It also predicts that the prison population will rise from its present total of 44,000-plus to 48,000 in 1990. If the Government accepts what its senior civil servants are saying, it must accept that both its 'war on crime' and its professed efforts to reduce the prison population are destined to fail, as they have certainly failed so far.

One might expect a government of hard-headed financiers to conclude that their penological enterprise, if not actually bankrupt, is at least in need of a drastic 'rationalization'. The authors of the Cabinet paper have other ideas. Their answer to the problem is to throw money at it, to the extent of increasing expenditure on 'law, order and protective services' from 1.3% of gross domestic product in 1979-80 to 1.6% in 1990-91. One result of this investment will be 5,000 new prison places . . . in 1990.

For those Tory hardliners who suspect that the Home Office is run by pinkos (read the *Daily Mail* if you don't believe it), there is worse to come. According to *The Times*, the paper discloses an 'intention to mobilize local communities' as part of a 'two-pronged attack' – the other prong being the aforementioned public spending spree. Just what the proposed 'mobilization' may entail *The Times* fails to inform us. But the rhetoric seems downright Socialist.

The Government's second statistical embarrassment was announced in the press release accompanying the 1981 prison statistics. Here it was disclosed that 'the average length of sentence in the second half of 1980 was about the same as in the second half of 1981' (for detailed figures we have to wait for the annual Criminal Statistics, the rising price and diminishing weight of which have themselves been causing some concern). This may not seen like dramatic or surprising news, but as Malcolm Dean pointed out in the *Guardian*, it puts paid to Mr Whitelaw's hopes that he could, with the help of the Lord Chief Justice, quietly persuade the judiciary to pass fewer and shorter sentences on minor offenders.

In 1980, the Court of Appeal handed down its famous 'liberal' judgements in the cases of *Upton* and *Bibi*. It should really be regarded as a monument to the barbarity of current sentencing practice that the courts should even have considered prison sentences in these trifling cases (Mr Upton had pilfered £5 worth of goods from his employers; Mrs Bibi had unwrapped some packets of cannabis amid a plethora of mitigating circumstances), let alone that they should have declared, as they did, that there was 'no alternative' to imprisonment, but that since "petty offenders should not be allowed to take up what had become valuable space in prison", the sentences should be "as short as possible". However there was, in 1980, a slight dip in the length of prison sentences and a levelling-off in their number (in relation to the number of convictions), though not enough to check the rise in the prison population – only the prison officers' industrial action could do that. But now we know that there is no downward trend. And Mr Whitelaw knows that to keep the prison population down to a managable, let alone a humane level, will require action and not mere words. Probably he has known it for a long time. But he must also know that, given the attitudes of the judiciary, the press and his own party, there is little effective action he can take. Taking the other side of the law and order business into account – more police recording more crime and clearing up less of it – the old firm is well and truly in Carey Street. (The firm within the firm is of course another matter.)

It may be some comfort to Mr Whitelaw to know that not only are his policies bankrupt; so, very nearly, are his critics. RAP's financial shoestring is now so frayed that by the time this is published we may no longer have a paid worker. However, worker or no worker and grant or no grant, we can continue to produce *The Abolitionist* so long as it enjoys at least its present level of support. The Howard League, though, is not so resilient, and has announced that unless its present fundraising efforts are successful, it may be forced to close.

Now there are certain rather significant differences of approach between RAP and the Howard League – if there weren't it would be no great matter if one of the other ceased to function – and in the current issue we haven't pulled our punches in discussing them. It seems hardly likely that anything we say would affect the League's chances of funding either way. But we do think it important in the present situation that the League's brand of informed, humane, apolitical good sense should continue to make itself heard. We earnestly hope that the League will survive, and that it will survive as a campaigning body and not a mere research foundation.

If the pressure groups are scarcely in a position to strike terror into the heart (?) of the Cabinet, what about the Government's political rivals? Here the scene is not quite so bleak. The Labour Party has managed to work out the rudiments of a good short-term policy (see the Book review section in this issue); the Liberals have long been comparatively rational on these matters; and the marxist Left has begun to see the need to take law enforcement seriously. But who outside the penal 'ghetto' has even heard of these policies? Unless the resources and the will are found to get the message across, 'TINA' could remain as firmly entrenched in the field of penal policy as she appears to be elsewhere. And TINA has never been deterred by bankruptcy statistics.

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A Different Kind of Justice

Mike Nellis

Although controversy is endemic whenever criminal justice is discussed, it seems particularly acute at the present time, when opinions on the control of the police, on the undemocratic nature of much judicial thinking, and on the appropriateness or otherwise of custodial sentences are more po polarised than they have been for many years. The forth-Criminal Justice Act will underwrite the demise of the rehabilitative ideal and the corresponding decline of social work's fortunes with offenders, especially juveniles; a traditional concern with deterrence and retribution will formally replace the committment to the offender's welfare which, in theory at least, has been the hallmark of criminal legislation for the past twenty years. Parallel to this, however, are signs of an increasing interest in restitutive principles of justice and in a number of American schemes aimed at reconciling victims and offenders, schemes to which the social work profession could profitably turn its attention. Predictably, the American literature on the subject is already vast, but two English authors – ex-Howard League Director Martin Wright and Deputy Chief Probation Officer John Harding – have recently published concise arguments in favour of such schemes, in the hope of initiating a wider debate.

HISTORY

Restitution, and the associated principles of reparation, mediation and arbitration are not new to Western legal systems but they no longer have a major place within *criminal* law. The restitution and compensation orders which are available to modern courts are always supplements to the main sentence and rarely, if ever, involve a meeting between the individuals concerned. Meetings, however, are precisely what restitution entailed in the past, and in many mediaeval societies a variety of mechanisms existed for the settlement of community disputes (which encompassed much of what we would nowadays call crimes), and whose aim was the restoration of harmony between criminal and victim, rather than the mere punishment of one and the cursory compensation of the other. These mechanisms vanished not because they were ineffective but because local communities gradually lost power to a more central authority. The state, as the symbolic representation of the body politic, came to regard *itself* as the victim of crime, and also as the institution best suited to deal with it. An act of hostility against one, became, admittedly with some justification, an act of hostility against all, and the individual human being who had previously been regarded as the victim was reduced to no more than a walk-on part in judicial proceedings, either as witness for the prosecution, or simply as the complainant.

Christmas Humphreys, now a retired judge, made this point more than forty years ago (*The Menace in our Midst*, Humphreys and Dummett, 1937), when he argued that we have gradually moved from a position in which the victim had pride of place, to the opposite extreme, where the victim is irrelevant. It is out of renewed concern for victims that interest in restitution has grown, initially in the somewhat limited form of providing financial compensation out of public funds. Nonetheless, Margery Fry's achievement in establishing the Criminal Injuries Compensation Scheme (now Board) in 1964, was a considerable step forward and this, combined with the publication a few years later of Stephen Schafer's Home Office inspired study, *Compensation and Restitution to Victims of Crime*, ensured that reparation regained its place – at least in principle – as a major issue in the criminal policy field.

The development in the seventies of the Victim Support Schemes and the formation in 1980 of a National Association to represent them increased the range of services which could be offered to victims of crime in certain parts of the country, but one significant gap remained, which the Howard League for Penal Reform had already highlighted in its pamphlet *Making Amends* (1977): "Our law makes no provision for the making of personal amends by the offender to the victim. He gets no encouragement to apologise, to meet the victim, to see the harm he has done and to put it right and make up for it" Roma Bannister, in an appendix to the report of Lord Longford's *Working Party on Victims* (1978) briefly elaborates the implications of such contact: "The idea of any confrontation with the assailant may fill many victims with revulsion, and for this reason the full consent of the victim would always be the first requirement. Time will be needed for the majority of us to accept this concept as a form of therapy; for the victim, to understand is to forgive, and to forgive is to forget for both".

VIGILANTES

It is important for the judicial process to consider the rights and needs of victims if only to ensure that they, or potential victims, are not tempted to take inappropriate action themselves. Although instances of vigilante activity are thankfully rare, the populist sentiments which lie behind them are more commonplace, particularly in areas of racial conflict or where sexual politics are involved. The police and the politicians, and certain sections of the general public are excessively sceptical of harnessing these feelings in crime prevention programmes, except in such token ways as requesting information about "suspicious behaviour". It is not as if the police are particularly successful at catching offenders, yet without capture there can be no possibility of reconciliation with victims. Their reser reservations suggest a very monopolistic attitude towards the control of crime, which reinforces the widely held view of the person-in-the-street as someone only interested in revenge, and whose bloodlust needs to be held in check by the appointed professionals. Vigilante activity need not, however, lead to lynch law, but although evidence of this is hard to come by in this country, a higher level of co-operation has been achieved between such groups and the police in America, of whom the best known are the Guardian Angels in New York, the group of young people

who voluntarily patrol the subways to ensure the greater safety of the passengers.

AMERICA

Quite why popular involvement in crime prevention has been more successful in America than here is difficult to explain, unless the stronger emphasis on the ordinary citizen's right of self-defence lies behind it. Whatever the reason, popular involvement in the *administration* of justice, after an offender has been caught, has also progressed more in America, and it is in that country that the best contemporary examples of victim-offender reconciliation schemes are to be found. Many different types have flourished (parallel, it must be said, to a vast and horrifying prison system in which the poor and unprivileged are massively over-represented). Some operate within the criminal justice system, some outside it and others in symbiosis with it. They tend to deal with the same kind of offences – assault, theft, vandalism, cheque forgery, telephone harassment and family disputes – but vary in the extent to which they emphasise the different principles involved – restitution, mediation or arbitration. In practice, these are often difficult to differentiate.

The Night Prosecutor Programme in Columbus, Ohio, was founded in 1971 by the city attorney and a local law professor, and is based in police headquarters. It aims to divert minor criminal cases and some traffic violations from the formal court process by arranging for the disputants to meet in a controlled setting and agree upon a settlement, which is then written down and signed by both of them. Practical help can be offered or arranged for either party, and if the prosecutor's office deems it appropriate, a Probation Officer can be used to monitor the settlement for some time afterwards. If agreement cannot be reached, or if the incident recurs, the offender can be prosecuted in the normal way. The Community Assistance Project in Chester, Pennsylvania, is organised more informally and relies on much greater community involvement. It was founded in 1970 by an activist in a tenants' association, mainly to serve the town's poor black neighbourhoods. It takes referrals from the courts, the police and direct from the community, arranges for both parties to meet and using the same local people who act as mediators between the parties, checks periodically to see that any agreements are being kept. More informal still is the House of Umoja (a Swahili word meaning "unity"), a self-help group founded in Philadelphia in 1969 by an Afro-American couple who wished to mediate between the rival street gangs, and to teach their young members a less violent lifestyle. The group's political unorthodoxy initially brought it into conflict with the Department of Public Welfare, but their proven success in reducing street violence led to a change of mind and the provision of some public funds.

Restitution itself is not an *essential* ingredient in any of these projects; all that they aim for is a solution which is acceptable to both parties, which may or may not include the making of material amends. In the Victim Offender Reconciliation Programme (VORP) in Kitchener, Ontario, restitution is a key factor. It is organised by the Probation Department and originated in 1974 from the efforts of one officer who, with the consent of a Judge, ensured that two youngsters who had been on a spree of vandalism in a near-by town visited all their victims and made good most of their damage. This incident and its resolution became the VORP model; except where financial compensation is preferred, the victim, offender and Probation Officer agree on a number of hours work as restitution, and on the period over which it is to be undertaken. As in many other projects of this kind, both victim and offender were discovered to have other needs apart from those immediately at issue, and various means were developed to resolve them; in this case, a counselling group for the parents of young offenders, and a

course on interpersonal conflict resolution at a local university.

Such brief details as these cannot fully convey the work of these projects (more information is available in *Instead of Prisons*, by the Prison Research Education Action Project, New York 1976) but predictably none of them were founded without first having to face the scepticism and hostility of those people who were content with existing arrangements for dealing with crime. There were failures as well as successes; not all victims wanted to meet their assailants, and vice versa; not everyone stuck to the agreements they made and some failed to carry out the restitution they had promised, just as clients in this country sometimes opt out of probation, or refuse to continue with a Community Service Order. But what is remarkable – apart from the proliferation of projects in North America – is the unanimity with which workers in them report the readiness of most victims to co-operate, the containability of the anger and emotion generated in first encounters, and the willingness of wrongdoers to apologise and make amends *when the opportunity is provided*. It suggests that even in a society like ours, where personal values tend "in the direction of combative self-assertiveness" (the words of Archbishop William Temple) a space can be created in which both compassion and contrition can still be expressed without embarrassment or rancour.

RECONCILIATION

Nonetheless, there are regrettably few projects of this kind in Britain. Only in Exeter and South Shields are there schemes in which personal reparation is officially included as a legitimate means of working with young offenders. It is heartening, therefore, that some interest in the general concepts of reconciliation and restitution has been expressed by key individuals in the social work field. In 1977 David Thorpe suggested to the annual conference of the Association of Community Home Schools that victims and juvenile offenders ought to meet each other in court, and negotiate on compensation, describing it as "a method of righting wrongs which does the least damage to both parties" (*Community Care*, 16.11.77). My own reasons for believing that these ideas warrant serious and urgent attention from social workers, stem, however, from the more expansive comments which Professor Martin Davies has made on the profession's essential nature:

> "It is about reconciliation and compromise – reconciling the personal and the political, reconciling the state and the individual, and different individuals with each other. Because of this commitment to reconciliation, trying to balance the interests of the person and the interests of the state, social work must become increasingly ill at ease, and eventually untenable in any society under absolute rule or in a state of anarchy" (Community Care 22.1.81).

The schemes outlined above fit very well into Professor Davies' philosphy and in a small, symbolic way they can offset the development of the very conditions he fears, by showing how agreement and harmony can be created in situation which have hitherto been regarded as conducive to neither.

If crime ever did get out of hand – and we have not yet reached this point – we would indeed be living in a state of anarchy, or worse. Such crime as we have is often harmful and sometimes lethal, and we cannot pretend that it will ever go away on its own, no matter how substantially social conditions are altered. If, however, we turn more and more to incarceration as a possible means of reducing and preventing it we turn our backs on the many humane alternatives which could be used instead, and in doing so we drift ever closer towards a totalitarian future. RAP has written elsewhere that "Imprisonment is used most in those societies which value freedom least, and the growth of the prison system is the sharpest indicator of the political direction which a society is taking". Alternatives to prison are therefore vital, not only because they are more humane, but also because they endorse and support the view that mature, responsible behaviour is more likely to flourish in conditions of freedom than in conditions of constraint. This is not a popular credo at the present time but community-based restitution schemes could be a further illustration of its truth, and by making victims more central to the administration of justice, by insisting that forgiveness and regret are options which are still open to members of our selfish and acquisitive society, and in aiming to heal rather than to exacerbate rifts between people, they offer hope for a more balanced and tolerant way of life.

Dorothy Edmonds of VORP at victim/offender third party meeting

Victim-Offender Conciliation in cases of VIOLENCE

Philip Priestley

Violence is a tricky issue for anyone who has ever advocated in public the abolition of prisons or the case for radical alternatives to them. "What about the Moors murderers?" asks the sceptic in the audience, "or the Kray twins; or Peter Sutcliffe? What would you do with them?" Because there is no neat and satisfying answer to that question, which can be expounded in three or four crisp sentences, the critic can quit the scene with the re-assuring feeling that the rest of the case is a lot of hot air as well. One tactic – not highly recommended – is to turn the tables on the inquisitor and ask "Well, what would you do?" The answer is usually some variation of the theme of "putting them up against the wall . . .", expressed to a background of murmured approval from like-minded members of the assembled throng. End of argument.

But it cannot be allowed to rest there since personal violence, and society's response to it, is one of the rocks on which the retributivist position sits. Unless a way can be found round it, or through it, it will continue to block the path to more rational and humane ways of dealing with harmful behaviour.

THE VIOLENT OFFENDER

Of all the figures that add fuel to the continuing debate on law and order none is more compelling, or more frightening to the average imagination, than that of the violent offender. Calls for more punitive sentences are made as often as not with violent offenders in mind, and although they represent only a tiny minority of cases in the criminal calendar, their misdeeds and the penalties they merit – or are thought to merit – attract disproportionate attention from the media, and from the 'public opinion' they simultaneously create *and* reflect.

A closer look at the real-life events behind the headlines reveals a range of behaviour from 'push-and-shove' at one end to unspeakable cruelty at the other. Popular interest is focussed on this end of the spectrum; on the stereotype of the fearsome stranger who leaps out of the shadows and inflicts grievous injuries on randomly selected victims. In fact, very large proportions of violent offences, including sexual ones, are one in which the victims and the offenders are previously known to each other. And sentences in both the magistrates and the Crown courts reflect obvious differences in the degree of seriousness which common-sense attaches to specific acts of violence. More violent offenders receive fines than are sent to prison for what they have done.

Between the reality and its distorted stereotype then, there is a gap inhabited by disagreement about how best to deal with violent offenders. Hard-liners demand the re-introduction of capital and corporal punishments or the incapacitation of the offender via virtually never-ending sentences of imprisonment.* Reformists and radicals reject solutions like these on both empirical and moral grounds, but are silent as to what might constitute practical, acceptable, and effective alternatives.

VICTIM-OFFENDER CONCILIATION

One candidate for such an alternative is the idea of victim-offender conciliation in cases of violence. To what extent might it be made to meet these criteria? A growing interest in victim-offender relations has tended to start with simple property crimes as the basis of experimentation. There are perfectly good reasons for starting with the 'easier' situations and moving gradually towards the more difficult ones. But the previous acquaintance of many of the parties to violent crimes is an equally persuasive argument for beginning to tackle them in a way which will capture some of the dramatic emphasis now devoted to wrong-doing, and re-route it in more creative and constructive directions.

First some pre-conditions:

1. Victim-offender conciliation, no matter what the offence, can only take place with the consent and co-operation of both parties. It cannot be foisted, either as punishment on an uncaring offender or as therapy on an unwilling victim. And in that consent lies a principle that is subversive of current legal and penal arrangements in two distinct ways. Firstly it shifts the centre of gravity of legal proceedings from a confrontation between the offender and the state, whose statutes have been violated, to a personal encounter between individuals. And secondly it re-admits the possibility of *passion* in a situation from

* Recent recruits to the punitive lobby include those feminists who argue for the *automatic* imprisonment of all men convicted of rape – an idea which invites immediate extension to acts like infanticide, child abuse, and abortion.

which it has long been banished. The dispassionate atmosphere cultivated in most court-rooms helps in the search to establish the facts when they are in dispute, but it also serves to mask, and ultimately to deny the essential humanity of what went on in the events in question.

2. Victim-offender conciliation is not an all-or-nothing alternative. Where it is not agreed by one or other or both of the potential participants then clearly other measures might be necessary. And even when it *is* agreed there would be no reason to exclude other measures either. These might include practical and emotional assistance for victims, public denunciation of the behaviour and its perpetuator, efforts to help the offender refrain from similarly harmful acts in the future, and in cases of real physical danger – some mode of restraint. The forms that all of these might take are interesting questions in their own right, but not central to this discussion, which is about the practicality, effectiveness and acceptability of victim-offender conciliation.

How practical is it? There is no reason to think that a high proportion of victims and offenders in a wide range of violent offences would not, if not welcome, then at least accept the notion that they should meet on neutral ground to discuss what happened between them. My own experience is that this is possible even in the gravest instances of personal violence. It makes sense at the simplest level of comprehension for aggressor and aggrieved to talk about their differences, about what led to the violence itself, and what the consequences have been for both parties. It may never resolve the original problem but it will allow for calmer statements of positions, for the exhibition of otherwise suppressed anger or resentment, *and for* any possible future reconciliation between the victim and the offender. How effective the procedures would prove in practice is an open question that might be answered in a number of ways. Whether it is a better way of dealing with violent offences could be ascertained by observing what happened during conciliation and by asking the participants for their reactions afterwards. Whether it has any effect of subsequent violent offence behaviour could be discovered by other equally simple methods. If it turned out to positively promote violent re-offending at a rate not true of current arrangements it could be discarded. If, as is more likely, it was neither more nor less successful in this direction than current methods, it could be retained and expanded as seemed useful.

Finally, victim-offender conciliation is practicable in the sense that it requires no legislation or expensive provision to put into operation. The probation service has long professed and practised a conciliatory role between the offender and society; victim-offender meetings in cases of violence simply adds another and more personal dimension to it. It could also be undertaken by volunteers working with the probation service, or by voluntary agencies established for the purpose, or by anyone nominated by either victim or offender and acceptable to the other side. It could be undertaken as a prelude to legal proceedings, as an adjunct or as an alternative to them; or as an alternative sentence, or alongside a conventional sentence. And the principle could also be applied in a slightly diluted way through proxies. I once went with the victim of a murderous knife attack to talk to violent men in prison about his experience. They listened to him in silence, and then one of them, himself serving a life sentence, made a brief speech which amounted to an apology on behalf of all violent men to all victims of their violence. At that point the victim played for the prisoners a Beethoven sonata on a piano that happened to be in the room – which is another story.

But beyond these principal actors, caught in the spotlight of conciliatory proceedings, is the vast and shadowy audience that is 'public opinion'. How acceptable would all this be to them? To those in its reactionary wing, no doubt, not at all-despite a long history of loud concern for the victims and their unrequited wrongs. But to most people its appeal would be to a common experience of the circumstances out of which violence grows, and a sympathy with those who suffer its more unrestrained expression. And to a common-sense perception of justice in proceedings that attempt to bring people together as human beings rather than as remote figures in a transaction where 'debts to society' are re-paid in a symbolic currency of real and additional suffering or deprivation.

And that, in the end, would be one of the real virtues of victim-offender conciliation in cases of violence; that it would go some way towards exorcising the demons that have breathed vengeance in the ears of the mob, and its more sedate descendant in 'public opinion', to the exclusion of warmer and wiser counsels.

REPARATION

A WAY OUT OF THE 'PUNISHMENT VS. CURE' ARGUMENT?

Martin Wright

Reparation already has a place in the criminal justice system of this country. This article suggests that it should not remain a peripheral part of an essentially punitive system, but should be progressively extended until it becomes the primary principle on which society's response to harmful behaviour is based. Neither punishment nor rehabilitation is very effective, and if the attempt is made to combine them, they neutralize each other. The procedure for reaching decisions also needs to be different; so does the strategy for reducing the amount of harm citizens inflict on one another.

For radical reformers, prisons are almost too easy a target: they are so obviously inappropriate for their ostensible purpose of controlling crime, destructive of individuals an and families, and often cruel, inhuman and degrading. Yet to the man or woman in the street they are taken for granted as desirable, or at least an unfortunate necessity. Reformers, and RAP, have been better at criticizing prisons than at convincing people that there are viable alternatives.

There *are* plenty of alternatives, such as conditional discharge, supervised activity orders ('intermediate treatment'), day centres, hostels, fines, compensation orders, community service orders. But for many people none of these 'feel' right, except perhaps fines, which are punitive, and compensation and CSOs, which make sense because they require the offender to make up for what he has done. Why should lawbreakers, in the name of rehabilitation, get benefits denied to those who have not been convicted? Reformers criticize rehabilitation measures on other grounds. One is that research tends to show that they don't work; but often they have been under-resourced, or the research inadequately conceived, and as Romig (1978) and Palmer (1975) have shown, the results are not as discouraging as is often claimed.

The rehabilitative ideal also may imply that the origins of crime lie in defects of the individual, thus allowing society to evade a re-examination of its own structural faults. Offenders have been detained for long, indefinite periods until treatment has 'worked'; sometimes they are subjected to methods which are irrelevant or intrusive. Credit goes to probation officers if the offender doesn't re-offend, but if he does he has 'had his chance' and is punished. Non- custodial measures, intended as alternatives to imprisonment, are too often used as extra social control. But at least the rehabilitative ideal implies care for the offender. It can be adapted to be less paternalistic, more directed to improving people's social skills and opportunities, so that they have a better chance of surviving within the present flawed social structure until we get a better one.

Some radicals have reacted against the shortcomings of the rehabilitative ideal by a 'neo-classical' approach which returns to punishment; they argue for shorter sentences of pre-determined duration, but in America sentences have lengthened. The basic difficulties remain: society still deliberately inflicts suffering on its citizens, and this is not tolerable unless it achieves something – perhaps not even then. Is there any difference in principle between torture to induce confessions and punishment to induce conforming behaviour? Moreover, even if we acquiesce in the infliction of suffering, there is no rational way of deciding how much. Either we have to assess what amount of punishment is necessary to deter people, which is impossible (and even if it were possible would entail severe punishments for some minor offences, and *vice versâ*); or we make the punishment proportionate to the gravity of the offence, in which case it is no longer utilitarian but symbolic.

I do not accept that the State should deliberately inflict pain for its own sake, though I accept that it may have to use coercion in resolving serious disputes between citizens, and this may unavoidably by painful. Like Nils Christie in his disruptive new book *Limits to Pain* (1982) I do not want some neo-classical criminologist telling me that punishment is the only response to crime:

> It is an affront to my values, and I think to many people's values, to construct a system where crimes are perceived as so important that they decide, in absolute priority to other values, what ought to happen to the perpetrator of a particular crime. What does a neo-classical scale say about the values of kindness or of mercy? (p. 45)

We don't just need radical alternatives to prison, but radical alternatives to punishment.

In two ways both models, the rehabilitative and the punitive, are unsatisfactory. Firstly, both of them concentrate on the offender, and exclude the victim. The 'deviancy' school of criminologists has been preoccupied with victimless crimes, and what the State does to the offender, largely ignoring the harm which some offenders have caused to other people. Admittedly some victims are corporate bodies, or affluent individuals; and some harmful actions, often by powerful people and corporations, escape being defined as crimes. But the fact remains that many property crimes and all crimes of violence have individual victims, many of whom as no less disadvantaged than the offender.

Secondly, neither model pays adequate attention to the prevention, or at least reduction, of harm. Punishment is supposed to work by making an example of those offenders who are caught, in order to deter others, but it is doubtful whether its intended effects outweigh its damaging side-effects, and still more doubtful whether it is ethical to punish one person in the uncertain hope of frightening others. The continuing myth that deterrence is *the* way to prevent crimes saves other citizens the trouble of looking for better ways, some of which might involve them in time, money, effort or a modification of life-style. The rehabilitative model, on the other hand, ignores prevention altogether, except insofar as it is hoped that individual offenders, once rehabilitated, will not offend again.

A NEW MODEL

What should the new model be like? The following list is inevitably subjective, but I hope other people will find that it fits in with their values, and perhaps suggest improvements:

1) It should be based on the principle that harm should be cancelled out symbolically by constructive action, and practically by aid to the victim where necessary

2) It should if possible involve both victim and offender, and leave both feeling fairly treated

3) It should incorporate a systematic study of the circumstances surrounding harmful acts, and a search for ways of reducing them

4) Punishments known to be harmful should not be imposed

5) Rehabilitative measures should not be imposed without consent.

To describe a theoretical system to meet these criteria might sound unrealistic, so I will start from schemes which have been put into practice.

When one person harms another it can be regarded as a conflict. The distinction between conflicts labelled as civil and criminal is somewhat arbitrary. What is needed is to find the best way of resolving them. When a conflict leads to physical harm, such as an assault by a husband on a wife or a landlord on a tenant, several groups in America and Australia have recognised that merely to treat the incident as a crime, and punish the person who struck the blow, solves nothing, and leaves more rancour than before. So they have set up dispute resolution centres, where people can take their disputes instead of going to the police – indeed police or courts may refer cases to them. The hearing is usually within three weeks, before a mediator (two mediators in the Australian scheme). He or she is a volunteer, sometimes paid a nominal fee, trained in the basic principles. These are: that each person should tell his or her side of the story uninterrupted, after which the mediator does not apportion blame, still less punishment, but encourages the disputants to propose and agree the terms on which they can co-exist. Once both sides agree to appear, settlements are reached, and observed, in a great majority of cases.

Some American schemes have gone further: they invite offenders and victims who were strangers to meet and discuss what form reparation could take: service or money payment, to the individual or the community. Some victims (and offenders for that matter) are apprehensive about such a meeting; but in the event most have welcomed the experience, finding that it deepens their understanding.

An unfamiliar suggestion raises all sorts of questions about how it would work in practice. Probably the best way to deal with these is to set up pilot projects, with proper evaluation, and sort out difficulties as they arise. But basic problems need to be thought through in advance; a few of these are outlined here.

1) What about protecting the public from further offences? I have suggested in *Making Good* (Wright, 1982) a concept of 'natural consequences': that if a person has shown a propensity to harm others he may have to face, for example, exclusion from certain types of activity, or a period of supervision, until he regains people's trust. In a very few extreme cases detention would be necessary, but in places very different from today's prisons (Kane, 1980).

2) Could the ideal be subverted by the existing system? Yes, the danger must be guarded against. In New York, I am told, the courts have unloaded thousands of cases onto the mediation centres, depriving them of the great asset of having ample time to spend on each case. Centres should be community-based, not run by courts or police. They should be kept out of the hands of lawyers, who would soon reduce the ideal of reconciliation, or at least agreement to differ, to a power struggle about pounds and pence. Safeguards would also be needed to prevent the 'natural consequences' concept from letting punishment creep back in disguise.

3) What about fairness, as between a domineering offender and down-trodden victim, or *vice versa*? Might two similar offenders be asked to make different reparation according to whether their victims were tolerant or vindictive? Yes, the possibility exists, just as today one offender might get an 'individualized' sentence and the other a 'deterrent' one, or one victim might report the crime and the other not. But mediators would be responsible for maintaining fairness, and could see either side alone to ensure that their consent was freely given.

4) Would the principle of restitution reinforce the *status quo*, by making have-nots return the property they have stolen to the haves? Whatever one's views on the redistribution of property, it should not be allowed to take place through a help-yourself free-for-all; in any case many victims are themselves poor, and many types of harm do not involve property.

5) Would a system based on reparation be an adequate deterrent to wrongdoers? The deterrent threat of being caught, and the resultant stigma, would be retained; the fairer society becomes, the fewer people there will be who have no status or reputation to lose. In any case this question, and the existing system, are premissed on the fallacy that the threat of deterrent punishment is the primary method of keeping most of us well-behaved most of the time. It is not mere fear of punishment that keeps most of us from snatching purses or stealing from poor-boxes: it is our self-respect, plus the fact that we don't need the money that badly. (Admittedly many of us manage to neutralize our self-respect by pretending that our forms of law-breaking aren't really serious; burglars and other criminals reportedly do the same). People are also kept straight by the fact that they don't know how to commit most crimes, or are too squeamish – but a spell or two in prison usually overcomes those handicaps.

PREVENTION

How then can people be prevented from harming each other so much? There is a need for a new discipline, parallel to criminology and victimology, to study this basic question. It should not consist merely of security measures, like photographs on credit cards, though these are necessary. It should include schemes like the NACRO projects against vandalism on housing estates, the creation of 'defensible space', and providing constructive occupations for young people. On an official level the composition and function of crime prevention panels could be broadened. Local community self-help initiatives should be encouraged.

Another potent force is the power of example: we need more people who will refuse to go along with the accepted fiddles, or will agree to a shorter working week if it enables jobs to be spread among more people.

Of course we also need major structural reforms in education, housing and employment, as well as in law enforcement. Some people seem to imply that it is no use trying to improve these fields until the whole social, economic and political structure has been changed. I believe on the contrary that increasingly radical reforms in these different areas of society, beginning at local community level where possible, could be the best way of bringing structural change about.

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PRISON DOPE

After years of campaigning by RAP and allied groups, the prison medical service is now the subject of mounting political pressure. The Parliamentary All-Party Penal Affairs Group has recently devoted two meetings to the subject, and has decided to ask the Select Committee on Home Affairs to take the matter up (this has already been urged by at least one member of the Committee, Alf Dubs MP). Lord Avebury's inquiries have lead to revelations about forcible drugging at Gartree (see *Prison Briefing*) and he has also persuaded Lord Belstead to provide figures on the use of four specific drugs – Largactil (chlorpromazine), Depixol and Chloral Hydrate – at Holloway, Styal, Cookham Wood and Parkhurst prisons. As usual, the Home Office has provided the information in an incomplete and unsatisfactory form, so that if anyone uses it as a basis for criticising the prison medical service, the Home Office can retort that their criticisms are based on misleading figures. The table attached to Lord Belstead's letter shows the amounts of drugs *ordered* by various prisons; as he points out in his letter, an unknown proportion of these drugs are wasted, as they have a limited shelf life. Moreover the information for Cookham Wood, one of the most controversial prisons in this respect, is "not complete".

However, even the Home Office must have chuckled at the stupidity of *The Observer* (29.10.81) which interpreted the figures as showing that Holloway used, in proportion to its population, more than a hundred times more Largactil than Parkhurst in 1980. This startling conclusion was arrived at by comparing Holloway's 318 litres of Largactil *syrup* with the 2 litres ordered by Parkhurst, and ignoring (among several other things) Parkhurst's 4 litres of 'Concentrated Solution 13.3%'. A litre of this solution – which could only be dispensed in a diluted form – contains as much Largactil as 26.6 litres of syrup. In other words, Parkhurst's consumption of Largactil is more than 50 times what *The Observer* said it is. RAP wrote to *The Observer* pointing this out, and PROP sent a letter remarking that in view of the "cocktail cabinet" of psychotropic drugs known to be regularly used at Parkhurst, it would not be surprising if the prison could do without Largactil entirely. Neither of these letters was published, but RAP received an apologetic note from the journalist who (nominally) wrote the *Observer* article, explaining that someone else had "garbled" the figures without her knowledge while she was out of the office. That's professionalism for you.

The table below gives the figures supplied by Lord Belstead for 1980 plus RAP's calculations of the total quantity of each drug ordered per prisoner per year. Lord Belstead wasn't so helpful as to specify the strength of Largactil syrup and forte suspension; we found these in pharmaceutical reference books. We don't know the strength of the ampoules used for injecting prisoners – they may have been 25 or/and 50 mg – but because of the small numbers we can still give the total to the nearest 100 mg per prisoner. Remember that the figures do not give the full amount of drugs ordered for Cookham Wood.

	HOLLOWAY (av. pop. 355)	COOKHAM WOOD (av. pop. 63)	PARKHURST (av. pop. 262)	STYAL (av. pop. 244)
LARGACTIL				
Ampoules	800	Nil	Nil	5
Conc. Solution 13.3%	Nil	Nil	4 litres	Nil
Forte suspension (100mg in 5 mils)	8.1 litres	1 litre	Nil	Nil
Syrup (25mg in 5 mils)	318 litres	500 mils	2 litres	105 litres
Tablets: 10 mg	1000	Nil	Nil	Nil
25 mg	50	50	Nil	50
50 mg	50	Nil	Nil	Nil
100 mg	450	Nil	50	100
Total per prisoner	**5.2 g**	**0.4 g**	**2.1 g**	**2.2 g**
DEPIXOL				
Ampoules 20 mg	80	30	10	30
40 mg	130	5	10	50
100 mg	50	5	Nil	Nil
Total per prisoner	**33 mg**	**21 mg**	**2 mg**	**11 mg**
CHLORAL HYDRATE	30 kilos	15 kilos	6 kilos	2.2 kilos
Total per prisoner	**85 g**	**238 g**	**23 g**	**9 g**

As we would expect, the table gives Holloway a clear lead in order for the major tranquillisers, Largactil and Depixol. But ... great deal can be learnt by looking at these two drug ... solation. As PROP pointed out in its unpublished letter ... rkhurst, for example, may appear as a more frugal cons... r of these drugs because it uses other drugs instead.

The ... most striking figures are those for the sleeping 'tot', Chloral Hydrate. Cookham Wood, where the extent of night sedation has worried members of the Board of Visitors, is shown even by this incomplete record to have ordered more than 26 times as much Chloral Hydrate per ...soner as Styal. This confirms RAP's view that the ...cketing together of these two prisons, with their very ...fferent attitudes to drug use, in the annual dosage figures published by the Prison Department is grossly misleading. It also confirms that the scene shown near the beginning of the recent TV documentary, *Living in Styal*, where the Medical Officer refused to give a prisoner anything to help her to sleep on her last night (with the comment that she knew what their attitude to that was in there and he hoped that when she got out she'd stay off medication which she didn't need) may have been typical of that institution but is definitely not typical of the experience of women prisoners in general.

But perhaps the greatest significance of the figures is that they show the the Home Office is quite capable, when it so chooses, of producing figures for the use of specific drugs (instead of ill-defined broad categories) in specific prisons, and of quantifying them in a more sensible way than by the *number of doses* prescribed. We suspect, too, that it would not be beyond their ingenuity to provide at least an estimate of what proportion of the total ordered is thrown down the sink – it seems remarkably slapdash not to keep records of this. Irritating as the fact must be to the Home Office, the practices of prison doctors are now a subject of growing public concern; if they are to be a topic of informed debate the Home Office cannot keep all the information to itself.

Life Prospects

FRANK MARRITT

As we go to press, we learn that Frank Marritt (the subject of Ian Cameron's book *An Account Paid in Full* reviewed in *Abolitionist* No.11) has just gone on hunger strike. The 'Friends of Frank Marritt' believe that this is due to the unsatisfactory nature of the Parole Board's proposals for his future.

As readers may recall, Frank's latest application was turned down in May. In the absence of a "positive recommendation" from the Board, it was not legally possible for Home Secretary Whitelaw to order Frank's release on his own authority. So, at any rate, opines that Right Honourable Gentleman.

Yet the Friends' Campaign – and Ian's book – have had some impact upon the authorities. The Board proposed that he should remain in Albany Prison until September. After that he would be transferred to an Open Prison for nine months. The satisfactory conclusion of such a period would be followed by a new Parole Review, offering a *chance* of freedom.

Not what, one might ask, could be fairer than that? The time scale, for one thing, retort Frank's Friends. To the 9 months spent in the Open Prison must be added the six which the Review itself would take. Release dates are usually set a full year ahead. Frank Marritt could expect at the very least to spend a further two years in prison, making 20 in all. September, too, has all but slipped away and there is no sign of the scheduled move.

"The conclusion is inescapable", declares a spokesman for the Friends, "that the Board is merely making liberal noises to allay public concern aroused by the campaign, without making a genuine offer at all. Neither we nor Frank will be fooled by this. The campaign will go on." The Friends of Frank Marritt can be contacted at 10, Knox Court, Studley Road, London SW4.

KEN BARLOW

There was rather better news for another 'lifer' with whom RAP has been concerned. Readers of "Friday 13th" will recall that Ken Barlow the alleged "insulin murderer" has maintained his innocence throughout the quarter century of his incarceration. He maintains, too, that it is precisely his refusal to admit guilt which has led to the denial of parole on so many occasions. When RAP commenced its agitation on his behalf, the *Times* and *Yorkshire Post* took up the story along with three local radio stations and BBC Radio 4.

No news being good news, it was left to the *Sunday Telegraph* to announce the Parole Board's Recommendation. Mr Barlow is to go to an open prison for a year and then, 'subject to continued good behaviour and no resettlement problems', be set free.

To tell the bare tale was not of course enough for the reporter. Instead, *Sunday Telegraph* readers were regaled with yarns about Mr Barlow's alleged unwillingness to leave prison. He plays Bridge, it seems as well as Snooker and Darts. Then there were the amateur dramatics – Ken Barlow had recently had a part in a production of (wait for it). . . *Journey's End*.

Oh yes – idyllic places our prisons. We can picture former Home Secretary Jenkins sending in bottles of his favourite claret to the happy, laughing inmates of the Control Units he started.

It couldn't be, though, could it, that the worthy journalist was confusing the natural human faculty for making the best of a bad job (which is after all the way one persuades one's captors that one is fit to leave their charming clutches) with a genuine affection for the bad job?

Whatever the truth of it, RAP is heartily glad that Ken Barlow is to be granted parole. The shame of his 25 year imprisonment rests upon the shoulders of the society that imposed it: we are all a little freer when he is free. Even Parole Boards, after all, could scarcely refuse an inmate's application on the grounds that cell-mates needed 'a fourth for Bridge'. Or could they?

Enigma Variations

In its new Prospectus, the Howard League envisages three main areas of future activity: – Education, Research and Campaigning. One cannot help but suggest, with the greatest possible respect, a sorely-needed fourth: Clarification.

Manfully acknowledging that "many of the issues . . . have changed little over 20 years or more", the Prospectus concedes that "it is *perhaps*" (nothing is certain in this wicked world) "appropriate to re-assess the way in which the Howard League operates and to ask whether any better method exists . . ." Whereupon the author carries out a swift (and to the reader invisible) 're-assessment' and comes up with a couple of 'strategies'.

The first alternative is dismissed in a couple of sentences. One is unsurprised. The poor little thing has all the marks of the sort of 'easy way out' that all right thinking people learn early to eschew. It consists of doing the same things as now, only better.

STRATEGIC AMBIGUITY

With a blare of trumpets, the preferred 'strategy' makes its entrance. If to the untrained eye it seems indistinguishable from its predecessor – a case, so to speak, of a very old emperor in very new clothes – that only goes to show the untrained eye's lack of discernment. For the new 'emperor' is, to mix the metaphors a trifle, a very different kettle of fish. We are told so over and over again.

This alternative, for one thing, "involves a more fundamental reappraisal of the League's purposes and objectives". It would "result" for another in nothing less than "the League's being structured along different lines than previously." (Wow! what lines has it previously been restructured along?)

Modern Howardism, moreover, is to get a modern doctrine, appropriate to the times. It was all very well for Howard, the Prospectus insinuates – all he had to do was knock the fetters off. We, by contrast, live in more complex days. Accordingly, the central tenet of our faith must be: "Don't do *anything* until you understand *everything*."

The full ripe flavour can only be savoured by those prepared to wade through page 2. "On this view", it continues, "penal reform and the discussion of penal issues can be properly undertaken only when these are perceived as an integral part of the whole of the criminal justice system; and, further that the criminal justice system must be seen as reflecting in some way attitudes and beliefs which reside in the wider society which supports the law and its structures."

So far, so unexceptionable. If our Prospector had stopped at this point his observations would not have been out of place in, say, an *Abolitionist* article. The next passage is the the crucial one; a passage which should be emblazoned (in letters of cold tea) upon the League's campaign banner. "In other words", it startlingly concludes, "the reform of prisons cannot be undertaken unless *more is known* of all the earlier stages in the process of criminalisation and, more importantly, of the way in which attitudes towards crime and punishment emerge, which surround the decision to contain *any individual*."

* our italics, throughout.

That, I kid you not, is what it says. Howard got it wrong: he should have left the fetters on until the reign of Good King Billy-the-Next-but-One; by which time '*more*' might (perhaps) '*be known*'. In the meantime we might busy ourselves by altering Marx's epitaph to read: "activists have suggested many ways of changing the world; the point is to understand it."

LASTING SIGNIFICANCE

Anyone who deduced from the foregoing that the Howard League (formerly for Penal Reform and now for Nothing in Particular) was about to drop everything except Research, would be quite, quite wrong. Exclusive concentration upon a single aspect of 'Life, the Universe and Everything' would be, after all, incompatible with that "integrated approach to criminal justice" which – like the statue of Eros in Piccadilly Circus – the League is now 'poised' to provide. No: 'Education' (which, incidentally, is listed first) and 'Campaigning' are not yet to be dismissed from the trinity.

Napoleon III is said to have gained power by three methods: he punched some people on the nose (military); gave cigars to others (economic); and slept with the wives of yet others (political). Future historians will, similarly, be able to categorise the elements of the League's activity: it 'conversed' with responsible 'agencies' on "matters of joint interest" (Campaigning); it got its members to write some books (Research); and it established an Annual Lecture (Education). That, apart from a few pieties addressed to the Scottish League and others to the general membership, seems to constitute the master plan.

Suppressing such unkind thoughts – and even more subversive speculation about the League's analysis of society eventually leading to a decision to affiliate to the 'Red Brigades' – one turns to the question of what it is all for. Here the Prospectus is admirably succinct: "The League will be able to promote reforms which could achieve the lasting significance for which, over 200 years ago, Howard had hoped."

With the greatest possible respect (and purely in order to cheer us all up), I direct the League's attention to a reform of epoch-shattering significance. This sublime proposal emanates from *Young Offenders: A Strategy for the Future*, by the Parliamentary All-Party Penal Affairs Group:

> There should be a thorough evaluation and monitoring of systems of co-ordination in several areas of the country with a view to producing guidelines for good practice which would be of national application. In the light of the results of this evaluation, the Government should consider whether a statutory duty should be imposed on local authorities to establish inter-agency committees to discuss and co-ordinate policies concerning juvenile delinquency.

Some friends of mine were thinking of persuading the League's AGM (October 27th) to pass a resolution in support of this great reform. Fearing that such a move might appear rash, premature and ultra-radical, I have prevailed on them instead to ask for a working party to carefully examine the idea.

Sid Smith

4

RAP-a new strategy?

Jill Box-Grainger

This paper takes as its starting point the recent emergence of a new RAP strategy towards the abolition of imprisonment – a strategy which in many respects makes a controversial break with RAP's earlier political tradition. This paper is an attempt to examine the consequences of and need for this new strategy in the light of a decade of RAP tradition; as well as to evaluate the contribution that this new strategy may make to socialist praxis and debate.

However, I would stress from the outset that this paper is not concerned with a detailed chronology of various organisational ideas or arguments – although, obviously, elements of both will appear from time to time. This paper will concentrate almost exclusively on the 'macro' philosophical, theoretical and political issues which inform past and present RAP strategies and which have a direct bearing on their success or failure in the immediacy of the socio-political world.

RAP STRATEGY 1970-79

Although I talk of RAP *strategy* (old or new), I think it is fair to say that never in its 12-year history has RAP 'sat down' to deliberately develop a definite strategy. Tactics may be decided by strategies seem to 'emerge'. There are many reasons for this looseness of development, some of them even elevated to the level of political principle. But what I am anxious to point out at this stage is that I am (in hindsight) piecing together RAP's traditional strategy and, from the proliferation of tactics, drawing out political and theoretical assumptions which may never have been made explicit within the organisation at that time. Hence, the strategy I offer as 'traditional RAP' may not be representative of RAP's stated views at any one moment in history. I would argue, however, that it is representative of an overall position held definitely between 1970 and 1975, and lingering on until 1979 at least.

RAP's early penal lobby incorporated six key tactics: an exposé of the political bias and function of the law, criminal justice process and the use of imprisonment; the non-imprisonment of property offenders; defence against an escalation of the use of contemporary penal sanctions and any sanctions which are more coercive; the implementation of independent, non-coercive, non-directive radical alternatives to prison in the community; support of 'negative' prison reforms, i.e. reforms which undermined the stability of penal institutions; and the development of such tactics towards the eventual abolition of imprisonment. These tactics (which can be taken to form a single strategy) are based upon assumptions made by RAP about the nature of social organisation under Capitalism.

Firstly, RAP assumed that capitalist social organisation was characterised by inequality, acquisitiveness and violence.[1] The drive towards acquisition was widespread throughout society but the legal definition of 'illegal' acquisition was biased against a 'class' of people lacking in status and wealth. The function of the law and criminal justice process was thus to shore up such a system of inequality and prison, as the axis of the justice process, served a similar function. In this way RAP argued that there was a need to expose the 'true nature' of the protection against crime afforded by the law and by imprisonment – how in fact the law left untouched the crimes of the powerful and the root of crime itself (an acquisitive and unequal capitalist society).

CRIMINALS AS VICTIMS

RAP's tactics of non-imprisonment of property offenders, and of the eventual abolition of imprisonment, also derived from assumptions about the 'necessity' of crime under capitalism. For RAP argued that part of its exposing role was to "change people's attitudes and traditional prejudices towards the 'criminal'",[2] by showing that crime

1. Mick Ryan, *The Acceptable Pressure Group*, Saxon House, Farnborough, 1978, p.107.
2. RAP Statement of Aims, 1975.

was the (direct and unmediated) "reflection, along with suicide, mental hospital admissions, strikes and political unrest, of a disharmony and dissatisfaction throughout the whole social order."[3]

From here, RAP further argued that, owing to the definition of crime itself and to the material and ideological 'necessity' of crime in our society, "to speak of 'curing criminality' in this context is simply official obfuscation, a deceit practised on behalf of the powerful"; and that penalising criminals amounted to 'double victimisation':

> In a competitive and hierarchical class society (there are still two Britains and the poor-rich gap is widening) some have lost almost before they have started. As someone said, "We are all bent but some of us are unlucky". In this view crime is not the behaviour of a number of anti-social individuals but an integral part of the whole society – a reflection and a caricature – "The ideal pecuniary man is like the ideal delinquent in his unscrupulous conversion of goods and services to his own ends, and in his callous disregard of the feelings of others."
>
> When 'criminal behaviour' is viewed as an expression of needs common to us all, the labelling and isolation of 'criminals' becomes dangerously misleading and unjust. This myth, that there is a class of people who are particularly wicked, who are different from the rest, whose selfishness is a danger, is perpetuated through the machinery of 'justice'. For that reason, it is both immoral and unjust (in a non-legal sense) that those who could better be described as victims of a society based on a polite form of jungle law should be further pushed down, labelled as 'criminals' and forgotten.[4]

CONTROL AS REPRESSION

RAP's demands for the implementation of radical alternatives to prison, a defence against an escalation of contemporary penal politics, and that support should only be lent to 'negative' penal reforms, are all the consequence of the organisation's understanding of the function of social control in society. For RAP, society, and particularly social control institutions, were unequivocally repressive – this repression being inherent within the entire social control apparatus. Because of this, liberal reforms (whether of prison or of non-custodial 'disposals') were liable to be co-opted by the 'system', and thus, ultimately contribute to the maintenance of repression. Simultaneously, RAP argued against the 'reformist' demands of organisations such as PROP and the Howard League, against the use of state alternatives to custody, and *for* radical alternatives to prison. These arguments require some further explanation.

In relation to prison reforms, RAP took the results of years of lobbying in this area to be self evident: "the prison population has increased by almost 4 times over in the last 40 years and penal conditions are fundamentally unaltered since their inception", prison reforms had been entirely co-opted by the system and thus had 'failed'. However, RAP did not dismiss the necessity for prison reforms entirely but they were seen as largely someone else's (unnamed) responsibility, and as only deserving RAP's support when they had a direct bearing on the level of the prison population (i.e. the curtailment of sentencing powers):

> Reforms, however laudable and humanitarian, were none of its (RAP's) business. If groups like the Howard League wanted to press on with reforms all well and good, RAP would not be tempted, it's focus would remain firmly on abolition. Much the same response was evident when PROP was formed in 1972. PROP was welcome because it asserted the 'rights of prisoners to humane conditions' but any reforms it might win have little to do with the struggle for abolition.[5]

However, RAP also opposed any proliferation of state *alternatives* to custody, arguing that they were rarely actually used as an *alternative* to custody (typically as an *supplement*) and that, whatever their guise, their function remained essentially repressive. In fact, RAP went so far as to argue that the overt repression of prison may be preferable to the ephemeral liberalism of state alternatives. In regard to the introduction of Community Service Orders (CSO's) RAP commented:

> That if we have a repressive society, it is best to have the control that is exercised out in front in the nastiness of the prison system rather than performing similar functions more effectively and wrapped up in the cotton wool of community service. Sometimes nice can be a nasty word. Beware Greeks bearing gifts.[6]

Thus, from arguing that all modes of social control are functionally similar, RAP went on to argue that, but for appearances, modes of social control are interchangeable. This left RAP with only the possibility of supporting the implementation of radical alternatives to custody, whose essential difference from all other modes of social control would be that they contradicted the traditional functions of control. Thus RAP argued that radical alternatives should involve the minimum of coercion, the greatest amount of scope for the offender, must be based in the community, be a genuine alternative to custody, and must involve offender reparation. But, argued RAP, "there can be no blanket alternative to prison; only a series of very different schemes for all the different offenders."[7] It seemed to go without saying that all such schemes would be independent of the state – for this would be the only way to avoid co-option.

IDEALISM

The early RAP strategy suffers from the general problem of what Young (1979) has called 'Left Idealism', which is characterised by "voluntarism, a coercive conception of order and functionalism."[8] For RAP's early explanation for crime is that it is a "direct and spontaneous reflection of proletarian interests" (voluntarism) as though the causes of crime and of individual criminal behaviour are entirely synonymous and constitute proto-revolutionary action. And yet this characterisation is also confused by the picture of RAP's criminals as inescapable victims of their own crimes ("We must stop silently handing over social failures to impersonal and incompetent authorities")[9] and of a repressive criminal justice process. The consequences of these 'theoretical' contradictions, which rely heavily on the assumption that all crime is property crime, is that RAP appears to be solely concerned with the (revolutionary) plight of the offender and to some extent to condone crime. This appearance is particularly unfortunate given that most crimes are committed by working class people

3. RAP, *Alternatives to Holloway*, Christian Action, London, 1972, p.40.
4. *Ibid.*, p.32.
5. Ryan, *op. cit.*, p.32.
6. Thomas Mathiesen, *The Politics of Abolition*, Martin Robertson, Oxford, 1974, p.15.
7. RAP, *The Case of Radical Alternatives to Prison*, Christian Action, London, 1971, p.14.
8. Jock Young, 'Left Idealism, Reformism and Beyond: from new criminology to marxism' in National Deviancy Conference *et. al.*, eds., *Capitalism and the Rule of Law*, Hutchinson, London, 1979, p.13.
9. RAP, *The Case for . . .* (*op.cit.*) p.14.

against working class people, and thus was unlikely to endear RAP to a wide working class 'constituency'. Furthermore, there is a suggestion within RAP's 'reading' of the nature of crime that, as an expression of a 'real' social malaise, it comments upon the interests of 'working people' – interests which are abused and ignored under Capitalism. In this particular way, and in general, RAP's voluntarism implicitly assumes a monolith of working class interests (which ignores race, sex and occupation) – an issue to be taken up again later in the paper.

RAP's coercive conception of order, closely linked with its functional interpretation of the relationship between social control mechanisms, can clearly be seen in the organisation's response to state alternatives to custody and to attempts at 'penal reform'. The problem with this approach is that, firstly, it ignores the consensual nature of much of social order and in doing so fails to recognise the potential for conflict between criminal and non-criminal elements within the working class. Secondly, it cannot account for any changes within the State brought about by working class, or other, struggles. Thirdly, it offers no reasons as to why there exist many *modes* of social change (for instance, why not solely penal institutions – is it purely for economic reasons?), or what the relationship (frequently contradictory) is between different modes of social control and other social institutions (is it merely their function that is this relationship?). Fourthly, and critically, RAP's functionalist approach fails to distinguish between not only different modes of repression but also *degrees* of repression. As a consequence, RAP failed to consider whether or to what extent particular social control modes fulfilled the needs of, or were more or less immediately tolerable for, offenders.

However, RAP's conception of all modes of social control as 'intrinsically' and similarly repressive had particular consequences for the tactic of the implementation of radical alternatives. For immediately, the question about radical alternatives must be to what extent, or how long, before co-option by the system took place? – and, how, if at all, radical alternatives could overcome *from the outset* the 'functional determinacy' of any programme dealing with social control. RAP nevertheless, established its own radical alternative – in defiance of some fairly obvious contradictions within its political perspective, and of criticisms within the organisation.

COMMUNITY?

But the problems with radical alternatives do not stop here. For the very existence of such projects raised new issues, particularly the type of relationship RAP envisaged between radical alternatives and the rest of the social control apparatus, and between radical projects and the 'community'. Firstly, RAP never closely elucidated the type of effect the existence of radical alternatives would have on the whole system of social control. There was a suggestion that they would demonstrate a 'new way' and that their very existence would be an 'open' challenge to the functions of social control – although the 'demonstration' was nearly always posed in terms of grass-roots 'community education' rather than parliamentary lobbying.[10] Thus it appears that RAP's radical alternatives relied heavily for their success upon community co-operation and assumed that, directly or indirectly, the abolition of imprisonment via radical alternatives was (in the fairly immediate future) in 'community's' interests.

Yet this brings me back to the issue of RAP's characterisation of a 'community of monolithic interests'. For I would argue that although, in the politically long term, there may be an enormous similarity of interest amongst working class people, in the short time such interests are frequently antagonistic. For instance, Coote and Campbell (1982), and Friend and Metcalf (1981) argue that the "emphasis upon reducing institutional care and speedily returning the sick, the geriatric and the disabled to the care of the 'community'",[11] has always involved the re-assertion of the role of the family, the basic unit of the community – and ultimately the containment of women in the home. That in the short term the interests of a son may be in conflict with a mother's own interests is not only a theoretical problem but potentially a barrier against 'community' support for radical alternatives. Furthermore, as the 'division' between 'respectable' and marginalised working class has been wilfully politically exacerbated over the past decade, the traditionally 'respectable' working class communities are being crushed under economic and environmental pressures. As a consequence the issues of social order and stability are of paramount importance to what is seen as a 'besieged' sector of the working class. RAP's early strategy and focus of radical alternatives, which seemed to be in opposition not only to imprisonment but also to all social control as it was understood by the general populace, not surprisingly was unattractive to many working class communities as well as to 'traditional' grass-roots labour groups.

BANKRUPT

The problems facing the implementation and continued existence of radical alternatives were the major focus of dissent within RAP during the mid and late seventies. By the end of the decade RAP's public support for radical alternatives had waned, pushing the organisation into strategic crisis. This, coupled with a change in the nature of social control and tenor of politics in Britain at that time, left RAP, in my view, politically bankrupt. For having dropped the tactic of radical alternatives and remained opposed to the idea of penal reform, RAP was nevertheless faced with an extension and 'bifurcation' of social control [13] as well as a right-wing Law and Order lobby that was having significant ideological effect.

With no transitionary tactic to offer the increasing number of offenders now under the aegis of the social control agencies and institutions, RAP became almost irrelevant to the concerns of most prisoners and offenders. This is important if one accepts some crucial elements of Mathiesen's[14] strategy towards the abolition of imprisonment. For Mathiesen argued that concomittant with the key strategic role of radical alternatives, any organisation

which seeks to have significant political impact must disturb the 'social functions' of imprisonment through 'horizontal contact' with prisoners – the means of this contact typically involving 'purely political' action as well as the acceptance of a need for 'humanitarian reforms' and some clearly defined short term goals towards abolition. As discussed earlier, RAP's failure to distinguish between degrees and modes of social control, as well as its aversion for penal reform issues, meant that (without the tactic of radical alternatives) RAP's offering to offenders and prisoners was 'merely' political expose; ("This has increasingly been viewed as a necessary – but not sufficient – condition for the abolition of unnecessary and dangerous measures of control.")[15] To gauge the importance of Mathiesen's abolitionist arguments it is instructive to bear in mind the political response to PROP's campaigning as compared to that of RAP.

On the other hand, RAP's voluntaristic characterisation of crime and the criminal raised serious barriers against the organisation making 'horizontal contact' with other grass-roots 'community' organisations. For the 'communities' most plagued by crime were working class communities, as were those communities in which RAP recommended offenders participate in radical alternatives. This politically naive view of 'community' failed to acknowledge the impact of crucial social changes: the disintegration of 'traditional' working class communities, rising unemployment, and competition and confusion within a multi-racial working class of men and women all under extreme economic duress. Taylor (1981) cogently argues that it was the political right wing (particularly Thatcherism) which astutely grasped the profound effects of such changes, and which developed a significant ideological armoury of law and order demands. By the end of the seventies RAP was entirely out of touch with any of the interest groups with which contact would have been desirable, and its weather-beaten strategy neither was designed to directly threaten, nor did, the 'Powers that Be'. In this way it was not a case of RAP *being* 'defined out' by the radicalism of its views (as Ryan has argued: 1978); but rather that RAP defined *itself* out through political ineptitude.

THE NEW STRATEGY

> I think it is true to say that among the Left in general, including the Left of the Labour Party, whenever crime is considered as a serious issue it tends to become submerged in the dogma that it is all caused by social conditions and when those conditions are changed then it will disappear. In emphasising the fundamental importance of social conditions to both the causes and resolution of crime, RAP itself has been accused of having the same dogmatic and naive approach. However, what such a dogmatic approach fails to recognise is that for many people, working class people in particular, crime is a very real issue. We may dispute the degree to which crime, or serious crime, does occur but to simply dismiss such fears as fictions of the media and Tory Party propaganda – no matter how responsible for such fears those groups my be – is a dangerous error. Not only is the opportunity missed to advance a more relevant and constructive response to anti-social behaviour but by abdicating the responsibility to engage in this argument, another field is left open in which people's fears are open to exploitation by reactionary forces.[16]

The above quotation from the inaugural edition of the *Abolitionist* in 1979 is the first indication I can find of a re-evaluation of RAP's traditional strategy and political stance. The editorial of the same *Abolitionist* is also somewhat 'novel', in that there is emphasis on immediate confrontation with 'here-and-now' issues – (sic) on *prison* issues:

> In the struggle for change it is important to develop an overview by which to gauge advances and setbacks, but the here and now is important too. The prison system will not settle down and quietly await the findings and recommendations of the present committee of enquiry (May Committee) – nor should it. The struggle should continue on all fronts and we have no doubt that on particular issues such as the abuse of prisoners by drugging, the vexed issue of prison disciplinary procedures and the question of secrecy much can be achieved . . .[17]

However, despite these encouraging signs for a RAP re-think it is only in 1981 and 1982 that shifting political 'trends' within RAP have been publicly discussed in terms of a new strategy – a strategy which attempts to break with old political assumptions and which is the subject of fierce argument within the organisation. As I attempt to piece together, from various discussions and articles, the elements and political perspective of this strategy I shall also enter into a debate with an ostensibly similar 'reconstruction of socialist criminology' developed by Taylor (1981). The purpose of this debate is both to more clearly demonstrate the arguments for the particular form of strategy adopted by RAP, and also, indirectly, to 'pay tribute' to the work of some academic socialist criminologists for the current political debate within RAP.

At this stage of development, the elements of RAP's new strategy appear as follows:

A. Negative Reforms

1. **Towards Accountability** of the Prison System: involving an end to prison secrecy, censorship of prisoners' mail, etc; an end to the Prison Medical Service and its replacement by NHS care; an end to the disciplinary role of the Board of Visitors and the establishment of a publicly and locally selected panel of community representatives.
2. An end to compulsory work for prisoners.
3. An end to the current prison security classification system.
4. An end to the use of drugs to control prisoners.
5. An end to the use of solitary confinement under whatever name.
6. Abolition of parole.

B. Defensive Policy

1. An end to prison building (building moratorium).

C. Policy of Abolition

1. A curtailment of the power of imprisonment of sentencers.
2. The decriminalisation of certain offences, e.g. the possession of cannabis and soliciting.
3. An end to the imprisonment of minor property offenders and a fine or maintenance defaulters.
4. A reduction of all maximum sentences.
5. A limitation of the use of state alternatives so that they can **only** be used as direct alternatives to custody.
6. The implementation of radical alternatives to prison to be encouraged.

10. *Ibid.*
11. Anna Coote and Beatrix Campbell, *Sweet Freedom: the struggle for women's liberation*, Pan Books, London, p.87.
12. Andrew Friend and Andy Metcalf, *Slump City: the politics of mass unemployment*, Pan Books, London, p.87.
13. Roger Matthews, '"Decarceration" and the Fiscal Crisis' in National Deviancy Conference *et. al., op. cit.*
14. See Mathiesen, *op. cit.* ch.IV, sect.6; ch.V.
15. Mathiesen, *op. cit.*, p.110.
16. Frank Keeley, 'Law and Order Party Games', *Abolitionist* no.1, Jan. 1979, pp.16-17.
17. 'Editorial', *Abolitionist* no.1.

D. **Serious Offenders**

1. A re-evaluation of the **short-term** use of imprisonment, and the ideological potential of sentencing, for serious offenders/offences, (particularly when the offence is committed against especially oppressed members of society?).

E. **Restitution and Reparation**

1. A re-evaluation of the significance of criminal restitution, and the relationship between offender and victim.

The most significant aspect of this new strategy is its implicit acknowledgement that the contemporary bifurcation and escalation of the use of criminal justice sanctions and popular fears about crime are issues that require immediate and practical consideration. As a consequence, this strategy emphasises *short-term* measures to deal with effects of crime upon different sections of the working class (for instance, crimes against women); clearly defined *short-term* penal reform demands which aim to debilitate and challenge the ideology, 'social necessity', and conditions of imprisonment; and a re-evaluation of the ideological role of sentencing and the immediate problems posed by serious offenders. This emphasis upon the importance of *definite* short-term tactics incorporated into a strategy of abolition is a radical break with RAP tradition; but nevertheless a break which allows RAP potential 'horizontal contact' with the interests of offenders and grass-roots working class organisations.

However, despite the novel emphasis, many of the tactics were elements within the 'old' RAP strategy. But this type of tactic (see A, B) existed in skeleton form in the past and have recently been fleshed out, largely under the influence of the currently close working collaboration between RAP and PROP (Oh, heresy!). The aim of such tactics is clearly, by reducing the numbers being sent to prison and by dismantling the ideological and managerial appratus behind which the 'true function and nature' of imprisonment is hidden, to demonstrate that despite the rhetoric and enormous economic investment prison does little towards 'dealing with crime'. What is particularly interesting about these tactics as a whole is that their 'abolitionist quality' derives, equally, from their implicit acceptance of the limitations of such reformist demands and of their relationship with other tactical demands within the entire strategy.

POPULAR JUSTICE?

These qualities of RAP's strategy can be illustrated by contrasting it with Taylor's attempt to 'reconstruct socialist criminology' which is to my mind a useful example of the pitfalls awaiting a socialist strategy which involves transitional reforms. For (in what I believe to be a desperate bid to give an unnecessary air of radicalism to what are already the 'best' in negative reforms), Taylor suggests a 'democratisation' of the prison regime as a transitional reform. Accepting, in its entirety, PROP's presentation to the May Committee he adds that reform should include ". . . common assemblies in which the long-term and daily problems of management of prisons are openly discussed and specific administrative arrangements subjected to popular votes".[18]

What such a proposal fails to recognise is not only the practical impossibility of devising such a democratic procedure (it is inconceivable that prisoners could ever 'out-vote' prison staff, as Ward of RAP has already pointed out)[19] but also the self-evidence of the inherently anti-democratic and anti-egalitarian nature of imprisonment. The failure of Taylor's discussion of prison reforms is both his socio-historic amnesia about the role and nature of imprisonment and the fundamental limitations of reforms, as well as the context of 'popular justice' within which he articulate such reforms.

This latter point brings me onto a discussion of RAP's third 'tactical grouping' (C) – the curtailment of sentencing powers and the role of radical and state alternatives. The most distinguishing feature of RAP's new 'policy towards abolition' is that a reduction in the use of imprisonment is an *unqualified* demand and that radical as well as genuine *state* alternatives form an intrinsic part of the policy. The first issue that this raises is that RAP does *not* propose that a reduction in sentences and non-imprisonment of some offenders should be subject to any form of discretion – judicial *or* 'popular'. This is particularly important since it is through the demand for an *absolute* reduction that RAP implicity accepts that to take seriously popular fears about crime is *not* equivalent to an unmediated reflection of current popular 'law and order' demands. Although Taylor states that "the plea for practical involvement in existing labour politics is not a plea for a return to a conventional working-class materialism or common sense"[20], he also qualifies his demands for the non-imprisonment of minor,non-violent property offenders and curtailment of the relevant sentencing powers by arguing that the decision of who (of this group) is to be sent to prison be decided by "a judge and jury of the offenders' peers"; who can, in particular cases, impose prison sentences where 'popular justice' demands. Taylor's position only seems tenable if he is correct in suggesting that,

> . . . one immediate consequence of any such democratisation of the justice system should be a substantial reduction in the number of people being sent to prison. That is, popular rhetorics of justice would operate to redefine the bulk of the offences for which people are currently imprisoned as offences demanding compensation or other non-segratative responses.[21]

But I seriously doubt such would be the case because, as Taylor himself acknowledges elsewhere in his book, the 'law and order' ideology has had arguably its greatest impact upon 'peers of offenders', the working-class. Thus, where RAP and Taylor differ is that RAP does *not* presume any current existence of radicalism within the working class. In fact quite the opposite. For I would argue that RAP's new strategy takes as its starting point (amongst other things) the *conservative* fears of a working class in social and economic crisis.

Furthermore, I would argue that RAP's current support for genuine state alternatives to custody and for radical alternatives are evidence of the organisation's concern with immediate 'offender issues' as well as its understanding of the limitations of solely prison reforms as a transitional strategy. For what Taylor's argument lacks is the recognition of the real short-term value that alternatives may have for offenders:[22] that they can be developed as an example of a 'new way' and the socially unnecessary use of imprisonment; that through victim/offender contact/reparation (and in other ways) they may develop a sense of 'community responsibility'; and finally, that they offer some form of control or supervision without involving the degradation and extreme repression of imprisonment. In fact, I would argue that what is particularly interesting about RAP's public support for genuine state alternatives is that it involves tacit acceptance of certain degrees of control. But, given that in real terms any mode of state criminal sanctions also involve elements of punishment the question is then whether RAP had tacitly accepted a *short-term* tolerance for the minimum possible degree of punishment? However, this question is too organisationally 'hot' to pursue in definite terms any further . . .!

18. Ian Taylor, *Law and Order: Arguments for Socialism*, Macmillan, London, 1981, p.144.
19. Tony Ward, 'Popular Punishment' (review of Taylor, *op. cit.*) *Abolitionist* no.10, pp.23-4.
20. Taylor, *op. cit.*, p.125.
21. *op. cit.* p.141.
22. *op. cit.*, p.140.

'SERIOUS' OFFENCES

The short-term tactic of a re-evaluation of the use of imprisonment for serious offenders is related both to the issue of non-imprisonment of property offenders and the provision of alternatives to custody, and to a question which has perennially confronted RAP — ". . . but what about the murderer/rapist/etc?". In fact the link between the latter two issues is the actual changes that have occurred throughout the past decade in the usage of various modes of social control; that is, a 'bifurcation' of the criminal justice process has occurred:

> While the control net is expanding and the turnover rate is increasing for certain categories of offenders there are other categories whose period of incarceration is lengthening. The implication of this bifurcated process through the 'removal' of marginal or less dangerous offenders from long-stay institutions is that the 'seriousness' of those who remain incarcerated is relatively increased. As Cohen has argued (1977, p220), this has important implications for the future of prisons.[23]

On the one hand, this bifurcation has established a new 'tenacity' of the concept of imprisonment for serious offenders (at this stage left ill-defined) and thus a pressing need for organisations such as RAP to re-evaluate the 'necessity' of imprisonment in such cases. For if, as RAP maintains, prison is an 'ineffective' (at best) method of dealing with crime, the contemporary trend towards the unquestioning acceptance of the imprisonment of serious offenders either requires direct confrontation, and/or further consideration of the possible ideological effects of sentencing itself — where sentences of imprisonment may in certain circumstances have 'advantages' that outweigh their inevitably detrimental effects on individual prisoners. On the other hand, the combination of criminal justice bifurcation *and* contemporary fears about 'violent' street crime has made the issue of what to do with the *non*-petty offender an immediate one. Owing particularly to the demands of women to be protected from oppressive and gratuitous street and domestic violence, RAP has (quite healthily) been forced to consider 'what should be done' with the serious offender if it is to be at all responsive to popular demands (albeit that RAP continues to underline the fact that serious offenders constitute a very small proportion of all offenders).

It is the issue of 'serious offenders' that has probably provoked the greatest controversy within RAP. For the issue still under debate is whether for certain offenders (for instance rapists and murderers) imprisonment should be used as a *short-term* measure; not because in itself imprisonment holds any solutions to the problems of rape and murder but because in exceptional circumstances protection from certain offenders is an immediate requirement *and* more contentiously, that the actual public act of passing a sentence of imprisonment — in relation to the ideal of typically non-custodial sentences for all other offences — may have the ideological potential to demonstrate the relative seriousness of the offence in question. I would stress again that any such use of imprisonment would be used as a *short-term* measure only and could only have the 'desired' ideological effect if sentences of imprisonment for all minor and semi-serious offences were abolished or reduced to the barest minimum. In fact, in such a schema prison sentences would be a transitory tool through which to establish, in some more 'socially useful' way, the *relative quality* (and not absolute quantity) of punishment.

But this possibility for sentencing is currently furiously under attack within RAP, most especially because it has been argued (by me!) that in certain exceptional circumstances prison sentences would *overtly* be used as a form of *punishment* (as well as protection, etc). Obviously, although RAP has to some extent tacitly accepted a certain degree of punishment which, like it or not, is necessarily contained within an acceptance of the degree of control involved in genuine state alternatives to custody — to explicitly accept punishment as an *aim* (rather than a by-product?) causes problems.

However, the fact that RAP has taken up the issue of serious offenders in this particular way and at this time is of enormous importance. Acknowledging the many pressures for RAP to do so (mentioned earlier), it is also necessary to bear in mind in what way the issues have been discussed. On a slightly cynical note, that the major point of discussion has been 'rape' and rapists has perhaps made it easier for RAP to 'argue for' the use of imprisonment in such circumstances. That is, because feminists have clearly established the trans-historical nature of women's oppression and of the perpetuation of this oppression by rape — to talk about imprisoning rapists is *not* the same as talking about crimes that appear directly linked to capitalism. For it is easier to 'justify' short-term (capitalistic?) measures to deal with trans-historical problems than it is to employ capital-specific weapons of repression (prison) against arguably capital-specific crimes (ie. property crimes). Nevertheless, it is a real step forward that the issue of serious offenders has been tackled at the point where there is apparently a real conflict of short-term interests between members of the working class and all men and women; and that RAP is attempting to balance the different 'rights' and different interpretations of 'popular justice'. But whether RAP should or will accept any explicit arguments for punishment ('popular' or 'unpopular') has yet to be seen.

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I would argue that the emergence of a new RAP strategy should be welcomed, particularly a strategy which attempts to immediately tackle the practical relationship between prison reform and abolition and which in the process takes into account the need to balance different short-term interests within an overall oppressed social group. Furthermore, it seems important that RAP has at last accepted that previously implicit political assumptions require public re-evaluation, debate and maybe even change? But perhaps the most encouraging sign of all is that RAP is beginning to make contact and work closely with related campaigning and grass-roots groups (PROP and INQUEST to name but two) and that as an organisation RAP has begun to have something to offer them in the short *and* long term by way of strategy.

23. Matthews, *op. cit*, p.107.

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TOWARDS ABOLITION

Tony Ward

The theme of this issue of *The Abolitionist* has been the need for short-term policies which clearly recognise the immediate need of the actual and potential victims of 'crime' – that is, of those kinds of illegal activity that are at present routinely dealt with by imprisonment. A reader who has got this far might be thinking: "This is all very well, but where does abolition come in?" That is the question which this article will attempt to answer.

RAP's short-term policies are based on the conviction that the present use of imprisonment does not effectively 'protect the public', but serves to perpetuate (and is perpetuated by) an ideology which is a major obstacle to social change and therefore to any serious attempt to deal with the social origins of 'crime'. Thus it is entirely consistent with our concern for the victim to argue for a rapid and drastic (say 75%) reduction in imprisonment. Change on this scale would still leave the prison as the ultimate sanction of the criminal law – we do accept, I take it, that the criminal law, with the exception of those prohibitions which we expressly propose to abolish, should remain in force. It would also leave in prison those few 'criminals' whose activities when at liberty were a grave danger to others; they would still, whether or not we like the idea, by severely punished. But it would discredit the claims of the penal system to be able to do more than the little it can.

To implement such a change would not be easy, but the results would hardly be revolutionary. The present repressive system would have been made somewhat more liberal, more like the Dutch and Danish systems than the West German or the American. The differences between one advanced capitalist state and another are by no means insignificant. But if you aim radically to transform society, and with it the system of social control, you will not want to stop there. You will certainly not want to invoke any neo-classical theory of just retribution to give, as Marx put it, "a transcendental sanction to the rules of existing society".[1]

TRAVELLING HOPEFULLY

There is no right level of imprisonment. None of the competing criteria for deciding who should be imprisoned and for how long are really satisfactory.[2] There are some people whom we dare not leave at liberty. But once we have locked them up we have no way of knowing whether they can safely be released, except to release them and see what happens. There is no way out of this dilemma. The best we can do is to lock up as few people as we dare, as briefly as we dare; while at the same time trying to change society so that it does not give rise to situations where people need to be locked up. "*Towards* abolition" is a direction, not a destination. We do not possess a detailed map of a prison-less society; nor can we tell whether the road to abolition is passable until we have travelled further along it.

"Less of the same" is not a very inspiring slogan. Hegel, for what it may be worth, tells us that a series of changes in quantity becomes, at a certain point, a change in quality; but if this 'leap' occurs only when we have abolished prisons, and we cannot be certain of ever being able to reach that point, this still fails to inspire. I think that the qualitative change we are seeking involves a transformation, not of the apparatus of punishment alone, but of the whole system of criminal justice. What needs to be changed is not just the amount of pain that is inflicted, but the way in which the decision to inflict it is made.

IN WHOSE NAME?

'Punishment' is a tricky word to define. The most illuminating definition I know of is given by the moral philospher Joel Feinberg.[3] Feinberg argues that "What distinguishes punishment, in the strict and narrow sense which interests the moralist, from other kinds of penalties" – such as parking tickets and library fines – " . . . is a certain expressive function: punishment is a conventional device for the expression of attitudes of resentment and indignation, and of judgements of disapproval and reprobation, on the part either of the punishing authority himself or of those 'in whose name' the punishment is inflicted."

This definition helps to clarify a number of points. It reminds us that it is possible to be morally opposed to punishment (in the "strict and narrow sense"), without going to the length of eschewing any kind of penalty. It reminds us, too, that punishment is a "conventional device": conventions die hard, but they are not eternal. On the other hand: "The symbolic function of punishment also explains why even those sophisticated persons who abjure resentment of criminals, and look with small favour generally on the penal law, are likely to demand that certain kinds of conduct be punished when or if the law lets them go by." But the bit that particularly interests me just now is that phrase "in whose name".

Under our judicial system, the judge punishes 'in the name of' some entity called 'Society', 'the Community', 'the Law Abiding People of this Country' – whatever this sovereign body is called, it is far from clear who its members are: but it is certain that they take no part in the sentencing process. It is a notable irony that a system which sets such store by individual moral responsibility is so constructed that no-one can be held responsible for the pain the system inflicts: everyone, from the jailor to the judge, is the mere instrument of a higher power. As Christie argues,[4] it is a power-structure that makes for a high level of pain-infliction.

From a political point of view this symbolic function of punishment serves, in our society, as one of the means by which the ruling class (represented by the judiciary) exercises 'hegemony' over the subordinate classes. Punishment, as Gramsci remarked, is not merely coercive but also 'educative'.[5] The 'moral implications' of the chosen punishment, with its accompanying homily, press reports, etc., convey an officially approved set of values; but they also reflect (supposedly) an already existing consensus. People are not simply told what to think: they are told

1. 'Capital Punishment' in M.Cain and A.Hunt (eds), *Marx and Engels on Law*, Academic Press, London, 1979.
2. Nils Christie, *Limits to Pain*, Martin Robertson, Oxford, 1982, *passim*.
3. 'The Expressive Function of Punishment' in H.Gross and A. Von Hirsch (eds), *Sentencing*, Oxford University Press, 1981.
4. Christie, *op. cit.*, section 10.2.
5. *Selections from Prison Notebooks*, Lawrence & Wishart, London, 1971, pp.246-7. For an analysis of hegemony in relation to sentencing, see S.Hall *et al*, *Policing the Crisis*, Macmillan, London, 1978.

what (collectively) they *do* think: and, so long as the magic circle remains unbroken, they believe it. But occasionally, as in certain rape cases, the magician gets the spell wrong: the judiciary is exposed as upper-class, patriarchal, out-of-touch. When an outcry arises at the 'message' implicit in a sentence, we should not be reduced to an embarrassed silence by our dislike of the medium. Rather we should seek to translate dissatisfaction with particular sentences into demands for change in the sentencing *system*. Jill Box-Grainger's *Sentencing Rapists* is a fine example.

The position I would advocate with regard to punishment is briefly this: *judicial punishment* is morally and politically undesirable. Like prison it should in the long term be abolished, or if it cannot be abolished, its use should be minimised. But the best way to show up the moral and political flaws of the system is to advocate reforms that recognise that it is in the short-term interests of certain classes of potential victims that the 'language' of punishment be used to say one thing rather than another.

PARTICIPATORY JUSTICE

An alternative model to that of judicial punishment is suggested by Nils Christie in *Limits to Pain*.[6] In contrast to penal law, in which "values are clarified through a gradation of the inflicting of pain", Christie advocates a move towards 'participatory justice', in which "the same result – the clarification of values – is achieved through the process itself. Attention is moved from the end-result to the process."[6] The process would be *conciliatory* rather than judicial, conducted by people who did not have the power over the parties, but whose role would be to help them to come to an agreed decision. The conciliators would not be 'experts', but should be people who know the parties well and "will have to live with the consequences of the decisions for a long time to come". The discussion would be public (making possible "what one might call a political debate in the court") and would centre on the victim and what could be done for him or her, "first and foremost by the offender, secondly by the local neighbourhood, thirdly by the state." But the needs of the offender would also be considered: "Not to prevent further crime, but because needs ought to be met."

Once again, it is a matter of moving in a certain direction, rather than of having a precise idea of one's destination:

> Such bodies will not be able to handle everything. The state will not wither completely, but will decline a little, one hopes. How far we can go, will be a question of experience. But we cannot move without a goal. The goal must be pain-reduction . . . the territory of penal law has to be delimited to the utmost extent.[7]

It is also a matter, to an extent which Christie is inclined to understate, of a wider change in society, "of organising things in such a way that the common people become participants in those matters which concern them instead of mere onlookers." Participatory justice would work best – perhaps would only work at all – in communities of people who know and need each other, and share a common belief system.[8] "How far we can go" in the direction of participatory justice depends partly on how far we have got in the direction of a participatory society.

RADICAL ALTERNATIVES

How does all this fit into an abolitionist strategy? I remarked before that 'less of the same' is not very inspiring. In a way, that is a strength.

Let us imagine – there's no harm in a little daydreaming – that our medium-term goal of a drastic and rapid reduction in imprisonment has miraculously been realised. What does the penal system look like? It is anything but inspiring. The courts still hand down (when the authorities bother to prosecute) pretty much the same, boring old sentences: day-fines, 'community service', compensation orders, a few days or weeks in prison: *sentences which quite obviously do not accomplish very much*. They keep the machinery of law-enforcement ticking over, and that is all. For many offences, the penalties are not much more severe than a purely restitutive sanction would be. The most serious crimes are punished comparatively severely – but just what the most serious crimes are has become problematic, a matter of political debate. The 'politically neutral' judiciary has fought – and apparently lost – an unseemly public power-struggle with the legislature. In short, the claims of the penal law to be the chief guarantor of social order, and to express an apolitical consensus, have been quite badly shaken. It is possible that the system will find a new equilibrium and legitimate itself anew: that neo-classicism and complacency will prevail. But there may also be a greater willingness to experiment with radical alternatives.

It will help if the prototypes already exist. To return to the present, it is true that the lack of 'community' is an obstacle to the development of conciliation schemes, but it is not a total one. Many 'crimes' (and civil disputes) occur between people who know each other, and do not involve any fundamental conflict of values. Dealing with a few such disputes by mediation would not radically threaten the criminal justice system, and would not completely realise Christie's ideal, but it could 'prefigure' a more "rational, humane" and perhaps, "effective way of dealing with harmful behaviour or human conflict" – as we put it in page 2.

The distinction between 'state' and 'radical' alternatives is an important one in this context. State alternatives are additions to the existing penal system and are desirable only insofar as they reduce the use of more punitive measures. The various new alternatives introduced in recent years have not had this effect. Radical alternatives, on the other hand, stand outside the criminal justice system and offer services which are aimed at reducing their clients' contact with the system. However, they are dependent to some degree on the co-operation of people working within the existing system, so the extent to which they can engage is explicitly political opposition to it, without impairing their effectiveness as services, is limited. Restitution under court order, by prisoners, or under a formal system of 'diversion' is a state alternative which should be treated with some scepticism: American research to date indicates that, like other state alternatives, it does not 'save' many people from prison.[9] But radical alternatives – such as the Australian Community Justice Centres mentioned in Martin Wright's article – are to be welcomed, so long as they do not divert our energy from more directly political work.

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6. p.94.
7. p.98.
8. *op. cit.* ech.10.
9. J.Hudson and B.Galloway (eds), *Victims, Offenders and Alternative Sanctions*, Lexington Books, Farnborough, 1981; John Harding, *Victims and Offenders: Needs and Responsibilities*, Bedford Square Press, London, 1982.

UNFINISHED

Readers who are familiar with the work of Thomas Mathiesen may have noticed certain resemblances between the strategy outlined here and Mathiesen's concept of 'the unfinished'.[10] One of the meanings of 'the unfinished' is: "a transition to something which is unknown, or at least not known in any detail, and which must be developed further along the way"; which is based on different premises from the existing system and which can only develop in the wake of that system's progressive abolition. The term also refers to "the movement which *refuses to choose* when it is confronted with the choice between revolution and reform, between that of transcending the framework of the prevailing system and that of reforming conditions within those frames."[11] Both of these ideas have influenced RAP[12] and are, I hope, at least partially preserved here.

However, there is a difference between the two versions (1974, 1980) of his essay on 'The Unfinished' which from RAP's point of view is highly significant. The 'unfinished' alternative or movement is one which not only 'contradicts' the premises of the existing system, but also '*competes*' with it. In *The Politics of Abolition* (1974) this is explained as follows:

> . . . the concept of competition takes, as its point of departure, the subjective standpoint of a satisfied system-member being confronted with an opposition. The political task is that of exposing to such a member the insufficiency of being satisfied with the system. When this is exposed, the opposition competes. This is the case whether the system-members in question are at the top or at the bottom of the system. Often those we try to talk to will be at the bottom, because they are considered more mobile for actual political action. (1974, p.14)

The 'system' referred to here appears from the context to be the socio-political system as a whole, not just the penal system. But in *Law, Society and Political Action* (1980) Mathiesen places a narrower emphasis on 'talking to' those 'at the bottom' of the particular sub-system which it is proposed to abolish: "we take our point of departure in structures *the compulsion of which is relevant to those who are addressed*, so that the system competes." (1980, p.236, italics in original.) For example, in the successful campaign to abolish the Norwegian system of forced labour for vagrants,

> What was . . . decisive . . . was that the field of struggle which was chosen – the forced labour system – really concerned the people to whom the movement addressed itself, the forced labourers themselves. This was not a struggle far removed from them; this was a struggle against the system which impinged directly, even bodily, upon them. (1980, pp.234-5)

In his 1974 account of this campaign, Mathiesen indeed stresses the *participation* of the forced labourers, but he also gives a prominence to 'articulate public opinion', to newspaper articles and so on, which suggests that the movement in fact "addressed itself" to a less exclusive audience.

Along with the narrowing of the field of 'competition' goes a markedly pessimistic tone about the extent to which short-term objectives will actually be achieved. 'Pure abolishing changes' are unlikely to be won except in 'peripheral' areas (such as the forced labour system), but:

> To the extent that the demands are only partly, or even not at all, fulfilled, and one makes no headway against the structure – which is the usual rule – this may be *used in consciousness raising* concerning the necessity of deeper structural changes. (1980, p.249, italics in original)

I have no direct knowledge of Scandinavian politics, but I suspect that the shift in Mathiesen's position may be a response to the setbacks described briefly in Christie's book:

> Today, the situation has changed dramatically. These days activities within the prison movements tend to be much more defensive of positions attained in the beginning of the 1970's. The movements are not any longer in the centre of public attention. The climate has changed. Former allies have become enemies, more soft-spoken, or out of power. An economic recession makes for less willingness to experiment. (*op. cit.* p.64)

Mathiesen now seems to be saying that, beyond merely defensive struggles, the prison movements can hope for little more in the short term than a raising of political consciousness amongst prisoners. If this is so, then RAP as a separate organisation might as well cease to exist.

ESCAPE

Luckily, RAP has an escape clause. Mathiesen's (1980) analysis presupposes an 'absorbent, non-antagonistic' type of state to which, he admits (p.215) present-day Britain does not exactly conform. In recent years the British state has, as Hall *et. al.* put it,[13] gradually 'tilted from consent towards coercion". The tilt towards coercion has been legitimated largely by playing on the widespread fear of 'crime'. It is therefore a matter of importance for all who oppose this political 'drift' to challenge the belief that repressive measures are the answer to the 'crime problem'. Insofar as 'negative reforms' of the penal system are a means toward this end, it should be possible to gain support for them from many groups besides prisoners.[14]

In Mathiesen's terms, the task is (still) to expose to the "satisfied system-member" the "insufficiency of being satisfied" with the existing penal system as a guarantor of social order, and the need for more far-reaching change if 'crime' is to be diminished. The immediate priority is to gain support for reforms of the penal system which, while making it more humane, will also *show up its inherent limitations and contradictions*. If this can be achieved we may create a situation in which the prospect of abolition and of the 'unfinished' alternative will have a wider appeal.

10. Mathiesen's essay 'The Unfinished' which is based on his experience with the Norwegian prison movement, KROM, has appeared in two ('unfinished') versions: in *The Politics of Abolition* (Martin Robertson, Oxford, 1974 . . . ***AND WOULD WHOEVER HAS RAP'S COPY KINDLY RETURN IT?*** . . .); and in *Law, Society and Political Action*, Academic Press, London, 1980, pp.226-50).
11. *Law, Society and Political Action*, p.222.
12. See Stan Cohen, 'Introduction' to Liz Evershed, *Outside Chance*, RAP, 1980.
13. Hall *et al*, *op cit*, p.217 (not a *verbatim* quotation).
14. The Labour Party discussion paper on prisons in the *Socialism in the '80s* series (1982) suggests that this strategy is already making considerable headway. However, it is doubtful whether labour has yet grasped the political significance of prisons, and hence whether it has the will to carry these changes through – see review in this issue.

BOOKS

Frightened for My Life: An account of deaths in British prisons
Geoff Coggan and Martin Walker
Fontana 1982 £1.95 pb.

Frightening Deaths

696 people died in British prisons between 1969 and 1980. *Frightened for My Life* is about some of these deaths; it is a product of the concern and campaigns in recent years around deaths in all forms of custody and the often blatant inadequacy of their investigation. Perhaps a little disengenuously, the authors state that their aim is "to throw a questioning spotlight on deaths in Her Majesty's Prisons". *Frightened for My Life* certainly does more than that. It reads as a swift, angry and complete indictment of a prison system.

The first section is a chapter-by-chapter account of seven deaths in prison. It begins with Barry Prosser, whose death has almost come to symbolise prison brutality. Beaten to death in Winson Green prison, found with a ruptured stomach and bruising on his eyes, elbows, hips, genitals, thighs, knees and ankles, his death was so shocking that a coroner's jury brought in a verdict of 'unlawful killing', and one particular prison officer was committed for trial on 3 occasions although never convicted. The deaths of Richard 'Cartoon' Campbell, Stephen Smith and George Wilkinson – 3 other well-known cases – are also described here.

But perhaps more important are the unknown cases, the deaths by 'natural causes', which illustrate less dramatic but equally disturbing aspects of the prison system; the long term treatment of the ill and dying. The cases of John Duddy, Guiseppe Conlon and Sean O'Conlain read as a catalogue of abuse; delayed and then often incorrect diagnosis, delayed and then only partial treatment, inadequate medical facilities, poor diet and hygiene, failure to inform relatives or a prisoner himself of the true extent of his illness. When Guiseppe Conlon, who was known to have TB, coughed up blood he was given Benylin cough mixture. When he was moved to Wakefield prison and unaccountably taken off the special medical care prescribed for him in Wormwood Scrubs, he lost weight rapidly and his health deteriorated to a point from which it never recovered. When he was dying he was ignominiously shifted back and forth from Wormwood Scrubs to Hammersmith Hospital.

Sean O'Conlain too was shifted from one prison to another when ill, once only 20 minutes before a scheduled family visit was due to take place. Although he had a relatively rare form of cancer his condition was diagnosed as heartburn and when he saw a consultant a month before he died, it was the only medical treatment he received throughout his imprisonment. He was denied visitors in the last days of life for security reasons, and was not granted release on compassionate grounds. And John Duddy, who was known to have a serious heart condition and was treated with valium when he complained of chest pains, who was also moved from prison to prison in his last days. The chapter on John Duddy is extremely moving.

One of the things *Frightened for My Life* does best is convey the reality of illness and death in prison, the fear and uncertainty of 'pain in a hostile environment', a Kafkaesque world of rules by the hundred with ultimately no humanity, and no redress. These detailed accounts, compiled from many and various sources, will break down assumptions (created by the very secrecy of the system) about death in prison. That is happens to 'others', that maybe these men deserved their fate, that accidents *do* happen. A minor quibble: I would have liked more on the experience of women prisoners.

The second section of the book is a brisk analysis of key elements/staff within the prison service – the Prison Officers and the Prison Medical Service – and their relationship to the Home Office. Both the facts and arguments will be familiar to Abolitionists and are summarised in PROP's evidence to the May enquiry. There is a short chapter on coroners' courts. The arguments on coroners' courts should also by now be familiar. Criticisms of coroners are as ancient as the office itself. In the 17th century coroners were seen as corrupt men struggling to rise. In the 20th they are often ill-qualified men struggling to rise to the occasion. Although in charge of a court of law, a coroner can be a doctor with no legal experience, a fact that A P Herbert played on in his satirical piece on Dr Busy, the Bath Coroner, back in 1935. Moreover, no judge in a civil or criminal court has the power that a coroner has. It is the coroner who decides which witnesses to call, what they may say, what they may not. The statutory task of the inquest is to establish the facts of a death and this has often led coroners to limit their enquiries to plain medical questions. On deaths in prison, there are many examples (again, dating back centuries) of coroners refusing to allow prisoners to give evidence on conditions in prison on the grounds that such evidence falls outside the scope of the enquiry. Yet as *Frightened for My Life* shows, only a thorough examination of *all* the circumstances surrounding a death could bring to light possible negligence or violence against a prisoner.

In 1981 I attended an inquest in South London on a prison death. The deceased had died of cancer. During the proceedings the family stood up and protested. What about the conditions in prison? Why hadn't the deceased been moved to hospital sooner? They were politely told to shut up or they would be shut out. Evidence was heard from the prison doctor and what the coroner described as "my pathologist"; from the beginning the coroner stated that "by no stretch of the imagination could the death be related to his incarceration" adding that this was a "rubber stamp" case. The coroner virtually told the jury to bring in death by 'natural causes' which they did, another major problem in coroners' courts where the coroner wields power over a jury who for lack of knowledge or confidence more often than not follow directions. The jury in the South London court did not leave the court when deliberating their verdict. They conferred in the open, uncomfortable under the scrutiny of both coroner and the deceased's family. Their verdict was delivered in half a minute. The family had not been represented – for legal aid is not available in coroners' courts. As the authors wryly point out, this can mean heavy fees for the family of the deceased, up to "£600 plus VAT to the State for the privilege of trying to discover how a son met his death in a state institution."

It is now widely recognised that there must be a new or radically reformed machinery of investigation for deaths in custody. Groups such as INQUEST are now campaigning hard on just these questions.

This book could only have been written by those active in the prison movement. It often draws on the smuggled out accounts of prisoners to which only a group like PROP can get access. It also stands as a record of PROP's effective role in bringing to light the excesses of the MUFTI squad in Wormwood Scrubs in 1979. This information will reach a wider audience than usual as Fontana is a popular and commercial publisher and seems to be pulling out all the promotion plugs on *Frightened for My Life*. It more than deserves it.

Melissa Benn

Wright makes Good

Making Good: Prisons, Punishment and Beyond
Martin Wright
Burnett Books (1982) £5.95 (paper)

The legacy of schemes for penal reform in this country is at best an ambiguous one and those who have been content merely to tinker with the worst abuses of our prison system, and to deal with them piecemeal, must bear some responsibility for the record levels of imprisonment in contemporary Britain. As Director of the Howard League for over a decade Martin Wright gained a detailed understanding of British penal administration, appears to have been radicalised by the experience and has now emerged to challenge many of its most basic assumptions and practices.

In a perceptive and humane book he quietly demolishes many of the myths about the value and the necessity of punishment, and especially incarceration, and then proceeds to erect in their place an alternative vision of justice for both offender *and victim*, based on the principles of "collaboration, sharing and caring". At the heart of his analysis is a belief that the old philosophies, deterrence and rehabilitation, are neither moral nor effective in achieving their stated aims, namely reducing crime and providing the sense of security and order which the general public – you and me – understandably expects. His catalogue of the damaging effects of imprisonment is depressingly familiar, but significantly wider than that of many other commentators: he raises the exclusion of the community from any real knowledge of what goes on in prison, and from other crucial areas of the criminal justice system to the same level as the more standard concerns about the isolation of prisoners from family, friends and employment (hopefully!) and the atmosphere of frustration and violence endemic to prison life.

The real novelty of Wright's book lies in its proposed solution to the present malaise, the development of a new philosophy distinct from the tired polarities of punishment and treatment, which nonetheless retains the best – i.e. constructive, humane, forward-looking – elements of both. The Howard League from its inception has shown sporadic interest in the notion of reparation for criminal offences; Martin Wright's arguments are a thorough and elaborate version of ideas first mooted by William Tallack and later developed by Margery Fry, which take account of American initiatives in this field and the advances (there were some!) which have been made in the name of rehabilitation.

In Wright's system the needs of the victim would be paramount. The offender would retain his liberty but be expected to make amends to his or her victim for the harm, damage of inconvenience caused. This process would be as personal as possible; the Criminal Injuries Compensation Board already caters, albeit inadequately, for impersonal, financial forms of redress and what Wright has in mind are face-to-face encounters between victims and offenders, in the presence of official, or lay, mediators and perhaps in special tribunals, in which a strategy of restitution can be worked out. This could involve an apology, repayment, repairs to damaged property or a more symbolic form of service to the aggrieved party. Such encounters would not guarantee repentance and forgiveness, but would create an opportunity for them to be shown in ways which the existing criminal justice system, by emphasising an offender's obligations to the state, both prevents and discourages. Wright recognises that in many so-called criminal offences there are conflicting parties who are potentially reconciliable, and that they would be better dealt with in a manner akin to civil proceedings. His examples include tenancy and marital disputes, cases of vandalism and football hooliganism and certain crimes of non-fatal violence, such as child abuse and sexual assault, where victim and offender are often known or related to each other.

It is not difficult to see where opposition to Wright's views is going to come from. Hardliners will undoubtedly believe that the mere making of amends is an inadequate punishment; restitution is okay only if it *accompanies* punishment. They may also be suspicious of the populist element which Wright emphasises; he says that the greater involvement of victims in the legal and penal process is a step towards bringing "justice back to the people". The more extreme supporters of treatment-oriented approaches will worry that reparation is too punitive, and unrelated to the offender's "needs" (which are invariably seen in social and emotional terms, rather than in moral or spiritual ones). The libertarians, rightly, will worry about the techniques of intensive surveillance in the community which Wright, despite fully acknowledging their drawbacks, is also prepared to support, along "what-else-can-you-do?" lines.

It remains a sad, human fact that many victims want their assailants to be punished, often severely. It is not only the spokesman of the law and order lobby who use the suffering of crime victims to justify demands for harsher regimes and occasionally for the return of the death penalty; the public mood encourages such sentiments. But not since Anglo-Saxon times have victims been offered an alternative which involves them in quite the way that reparation schemes do; it remains to be seen how they will respond, and the views of the various victim support organisations which have mushroomed over the past decade need to be sought and analysed.

Wright remains true – and this is no criticism – to his liberal background in one obvious respect, in his continuing support for the many non-custodial alternatives to prison which were spun from the rehabilitative philosophy. But he perceives the like of day training centres, offender literacy classes and the diversity of schemes encompassed by "IT" not so much as expressions of a treatment approach, but as the other half of the reparative equation, the amends which society rightly and sensibly needs to make towards offenders who come, in the main – as do the majority of victims – from disadvantaged backgrounds. The radicalism towards which Wright has now moved is based on an intriguingly simple idea, namely that the aim of a criminal justice system should be to minimise and alleviate harm. We have lived so long with a penal system which exploits and creates harm and which causes more problems than it solves that the sheer innocence of this assertion comes as something of a shock. It is not a new idea, but Martin Wright puts it better than it has been put for years and those who respected him as an establishment figure, as well as those who respect him now for moving on, and making good himself, would do well to ponder deeply the practical, political implications of his final sentence:

> In the search for a society in which people harm each other as little as possible, and as much as possible of the harm is repaired, the radical question is whether a system that is primarily penal is the most effective and just that we can devise.

Maureen Waugh

Crisis of Reform

British Prisons (2nd edn)
Mike Fitzgerald and Joe Sim.
Basil Blackwell, 1982, £2.95 (pb).

It is something of a miracle that this revised, second edition of *British Prisons* has finally seen the light of day. The first edition became the subject of an expensive libel action when prison doctors – spurred on no doubt by an increasingly litigous Home Office – sued Blackwells over passages relating to medical treatment of prisoners. It is a tribute to both the authors and Blackwells that the new edition retains the critical cutting edge of the first, albeit with the controversial passages excised.

With the exception of the final chapter, which has been entirely re-written, the format of *British Prisons* remains the same. It has however been updated throughout and thus incorporates references to the Wormwood Scrubs MUFTI riot of 1979, the death of Barry Prosser as well as RAP's work on the drugs statistics issued by the Home Office since 1980.

Fitzgerald and Sim set themselves an ambitious task when they sat down to write *British Prisons* in November 1978. The May Inquiry had just been announced by Merlyn Rees and the authors aimed to produce a general study of the British prison system which would be an effective antidote to the expected managerial obsessions of May's Inquiry. *British Prisons* combines a detailed summary of the 'facts and figures' of the penal system with a description of the routine of life in prison and an analysis of the nature of the crisis in the prison system. It succeeds on all counts and effectively explodes the idea that theoretical clarity can only be achieved by oversimplification and superficiality. Neither Fitzgerald nor Sim seems gripped by the Foucaultian fetish which affects so many British criminologists when they get in front of a typewriter. You will not need a dictionary when you read *British Prisons*.

One of the remarkable features of the new edition of *British Prisons* is how familiar the analysis now seems. Over the last three years, the Fitzgerald/Sim description of the crisis in the prison system has become the 'conventional wisdom'. Ian Taylor's recent book *Law and Order: Arguments for Socialism* for example, draws heavily on their approach. Their starting point is the failure of the May Inquiry to recognise the "nature and full extent of the crisis in the British prison system." They point out that "there is no single crisis but rather a series of crises deeply structured into the system of imprisonment in this country."

The 'prison crisis', say Fitzgerald and Sim, has five separate aspects to it. First, that of "Visibility", the way in which the traditional Home Office obsession with secrecy is under attack as alternative sources of information about the prisons are more securely established. The experience of the suppression of the Gale Report into the Parkhurst riot of 1969 is contrasted with that of Hull 1976 when, as a result of pressure from PROP, MPs and others the role of prison officers in the aftermath of the riot was fully exposed. Secondly, the crisis of "Authority", which the Home Office faces in the form of an increasingly militant Prison Officers' Association. Unfortunately, the second edition was finished too soon to include an account of the POA's 1980-81 campaign of industrial action. Thirdly, the all too familiar crisis of "Conditions" is placed in its proper perspective in the light of the recent history of violent disturbances in uncrowded, long term prisons. Fourthly, the crisis of "Containment" is traced from its origins in the 1966 Mountbatten Report right up to the MUFTI riot at Wormwood Scrubs in 1979. The authors attribute this aspect of the crisis to the burgeoning population of lifers within the prison. Finally, they point to the crisis of "Legitimacy" which they see as the most crucial aspect of all – the way in which the very role of prisons in maintaining social order has been challenged over the past decade.

It is against the background of this general analysis that the authors deal in great detail in Chapters 2-5 with the tasks, organisation and cost of the prison system, the day to day experiences of prisoners and their interaction with the medical, educational and other services, the crucial role of containment and control in the contemporary prison system, and finally the role of the prison officer. In Chapter 6, "Reforming the Reformed", the threads of the argument are drawn together and the modern prison placed in its proper historical perspective in the light of the work of the revisionist historians, Ignatieff, Rothman and Foucault. Fitzgerald and Sim assert that "the most salutory lesson of revisionist history is that the contemporary prison system is the reformed prison system. The crisis in the prisons then is the crisis of reform . . ."

British Prisons was compiled from a wide range of sources – official and unofficial – as well as the authors' own practical involvement and experiences. And it is this latter aspect which distinguishes it from other academic works on prisons. Mike Fitzgerald was PROP's publicity officer in the early 1970s and Joe Sim spent three years with Sterling University's research project on Scottish prisons, enabling him to have close contact with prisoners. Their commitment to the radical prison movement is clear and they have written by far the best general account of the British prison system available.

Tim Owen

Alternatives?

Community Service Orders: a first decade of promise
A review undertaken by Ken Pease on behalf of the Howard League.
Howard League, 1981, £1.75.

Victims and Offenders: needs and responsibilities
John Harding
Bedford Square Press, 1982, £2.95.

Ken Pease has done some important research on community service orders (CSO's), but his latest offering is a mixture of things he has said before and things he ought never to have said at all. It is largely to Pease that we owe the knowledge that CS, in the majority of cases, is used by the courts not as an alternative to prison but as an alternative to other non-custodial measures. In an effort to solve this problem, Pease came up with the idea that CSOs of 100 hours or less should be classified as alternatives to other non-custodial sentences, and orders of 100-240 hours as alternatives to prison sentences of up to a year. In this booklet Pease reiterates that idea, and adds that CS should be regarded as "a fine on time". That is, it should be regarded as a tariff penalty (like fines), which is graded in terms of time (like prison). So how on earth can 240 hours of CS be regarded as equivalent to a year in jail? Here Pease makes a truly amazing attempt to have his cake and eat it. He starts off by arguing (reasonably enough) that CS is not such a 'disabling' form of 'retaliation' as imprisonment, and that: "Insofar as retributive justice lies in the proportionality of the substance of the penalty and not in the imponderable aspects of how it is experienced, then it does not matter that community service work should be regarded with indifference or even enjoyed." (p.4) But later (pp. 26-7) he turns to precisely those "imponderable aspects" to reach the conclusion (which "must inevitably be subjective") that an "order of 240 hours makes such demands on the offender that it ranks as the equivalent of a one-year prison sentence", because (among other things) it requires "an amount of teeth-gritting" that prison does not. In my (inevitably subjective) opinion this is a lot of baloney, but it derives what minimal plausibility it may have from the assumption that the offender is in work and has to give up precious leisure time. Nevertheless, true once again to his retributive principles, Pease insists that that number of hours imposed ought not to be influenced by whether or not the offender is in employment.

The trouble is that the very idea of CS as an 'alternative to prison' in the sense that either CS or prison could be considered appropriate for an offence of a given degree of severity, only really makes sense if one regards CS as an 'individualized' or 'treatment' measure. The sentencing decision, according to the textbooks, is a two-stage process: the 'primary decision' is whether to impose an 'individualized' or a 'tariff' sentence; the 'secondary decision' is what particular measure, or how severe a penalty, is appropriate. If the decision between CS and prison is made at the 'primary' stage, then the fact that CS involves a far lesser 'deprivation of liberty' than the appropriate 'tariff' prison sentence doesn't matter; but if CS is, like prison, a 'tariff' penalty, the disparity matters immensely. If 240 hours of CS represents a reasonable penalty for a given offence, then a year in prison does not. If CS is to replace one-year prison sentences as a tariff penalty (and I think it should), then the whole tariff has got to be very substantially scaled down. Otherwise CS will remain either a supplement to prison, or a highly anomalous alternative.

Pease wants to retain CS as a humane and constructive measure and as (in part) a genuine alternative to prison: but he also wants to give it an ideology which is in "harmony with the emerging penal *Zeitgeist* of the 1980S" (p.3). And that can only be done on the assumption that the emerging *Zeitgeist* doesn't take its own notions of 'justice' too seriously.

Restitution, if used as an adjunct to the criminal justice system, faces much the same problems as CS. It is apt to be used, as one of the American studies quoted in John Harding's book puts it, "in an add-on fashion, even where programme objectives included reducing the intrusiveness of the system." And if it *is* used as an alternative to prison, this raises questions of fairness, especially if the offender's fate depends on the whim of the victim. The latter problem can, as Harding says be 'side-stepped': restitution can be 'converted' to a period of community service, or paid to a surrogate 'victim', eg. a charity. The question as to whether restitution will replace prison sentences can all too easily dismissed (as it was by Robert Kilroy-Silk at the press conference to launch the book) by saying that restitution exists primarily for the benefit of victims, and any reduction of the use of imprisonment is merely incidental. But restitution, as Harding points out, is not the ideal way of meeting the needs of victims, most of whom are victimized by people who are never caught. If the sole objective is to provide for the interests of the victim, this would be better done by extending the range of public compensation programmes (p.18).

Victims and Offenders offers a sober and modest assessment of the potential of restitution, based mainly on American projects and research. It asks the right questions and presents the relevant evidence, and leaves it to the reader to think out the answers. It's a useful little book: my only reservation is that it will be useful not just to the likes of RAP, but to those who will be attracted to restitution by its miraculous ability to appease both those who think the criminal justice system is too soft (by laying greater emphasis on the offender's 'responsibilities' and the offender's 'needs'), and those who think it's too harsh (by erecting a shining new facade behind which the penal system carries on exactly as before).

Tony Ward

PUBLICATIONS RAP

– All prices include postage charge.

'A Silent World': the case for accountability in the prison system (1982) 40p

Prison Secrets (1978, postscript 1979), Stan Cohen & Laurie Taylor. This important study of the way our prisons are shielded from outside scrutiny will soon be out of print — buy one while you can! £1.80.

The Prison Film (1982), Mike Nellis & Christopher Hale. Illustrated study of a neglected genre and its political and cultural significance. £1.75.

Outside Chance: The story of the Newham Alternatives Project (1980), Liz Dronfield. Preface by Stan Cohen. Report on a unique alternative to prison in East London, founded by RAP in 1974. £2.30.

Parole Reviewed: A Response to the Home Office 'Review of Parole in England and Wales' (1981). Critique of the parole system and of proposals for 'automatic parole' for short-term prisoners. 65p.

"Don't Mark His Face" (1977), PROP. The real story of the 1977 Hull Prison Riot, as told by the prisoners themselves. 50p.

A Thousand Days of Solitary (1980), Doug Wakefield. Foreword by PROP. This eloquent account of life on 'Rule 43' had to be smuggled out of Long Lartin prison on toilet paper. PROP's Introduction and Appendices analyse the growing use of segregation in prisons, and the alternatives. £1.20.

Control Units and the Shape of Things to Come (1974), Mike Fitzgerald. Segregation, control and secrecy in prisons. 40p.

The Abolitionist no. 1 (1979). French prisons; the Liquid Cosh; RAP and the Howard League; Children and Young Persons Act; law 'n order and party politics. 45p.

The Abolitionist no. 2/3 (1979). Includes RAP's evidence to the May Committee and part one of a guide to drugs used in psychiatry. 75p.

The Abolitionist no. 4 (1980). Experiences of a juror; Brigid Brophy on 'Burying People Alive'; Wormwood Scrubs — the 'MUFTI incident'; Irish prisoners in Hull; drugs used in psychiatry, part 2; RAP and the 'penal lobby'. 50p.

The Abolitionist no. 8 (1981). Sex offenders in prison; 'victims' of sex offences; women in prison; prostitution laws; drunkenness offences; prison drugs in 1980; Barry Prosser; parole. 65p.

The Abolitionist no. 9 (1981). Special feature on Radical Probation Work. Plus: medical treatment of sex offenders; 'What About the Victim?'; excerpt from 'In the Belly of the Beast'. 65p.

The Abolitionist no. 10 (1982). Dangerous people; tape; rigid cells; 'restraints'; psychiatric secure units; Boards of Visitors; 'Politicians, Judges, the the Prisons, partially suspended sentences; reviews of Taylor, 'Law and Order'. Arguments for Socialism' and Walker & Beaumont, 'Probation Work'. PLUS: first issue of **Prison Briefing**. 80p.

The Abolitionist no. 11. Wormwood Scrubs – a Home Office whitewash; The other side of the Scrubs – the Annexe; prison medicine; 'Life'; mental patients' rights; Scottish political prisoners; magistrates' sentencing; alternatives – Walnut Cottage; community justice; South Africa; films. PLUS **Prison Briefing no. 2**: special issue on **Deaths in Prison**. 80p.

Out of Sight: RAP on Prisons (1981). Special issue of *Christian Action Journal*. Includes: Prisons in 1981; parole; prison deaths; prison doctors; Frank Marmot; what is a radical alternative to prison?; dangerousness; sex offenders; the future of the prison system. Especially recommended as an introduction to RAP. 70p.

SPECIAL OFFER. **Abolitionists 8, 9, 10 & 11** PLUS **Prison Briefing 1 & 2** PLUS **Out of Sight** all for £2.50. **Abolitionists 1 – 4**, £1.50.

MEMBERSHIP

Annual subscription rates: £6; unwaged/low paid: £4. Includes 4 issues of *The Abolitionist*.

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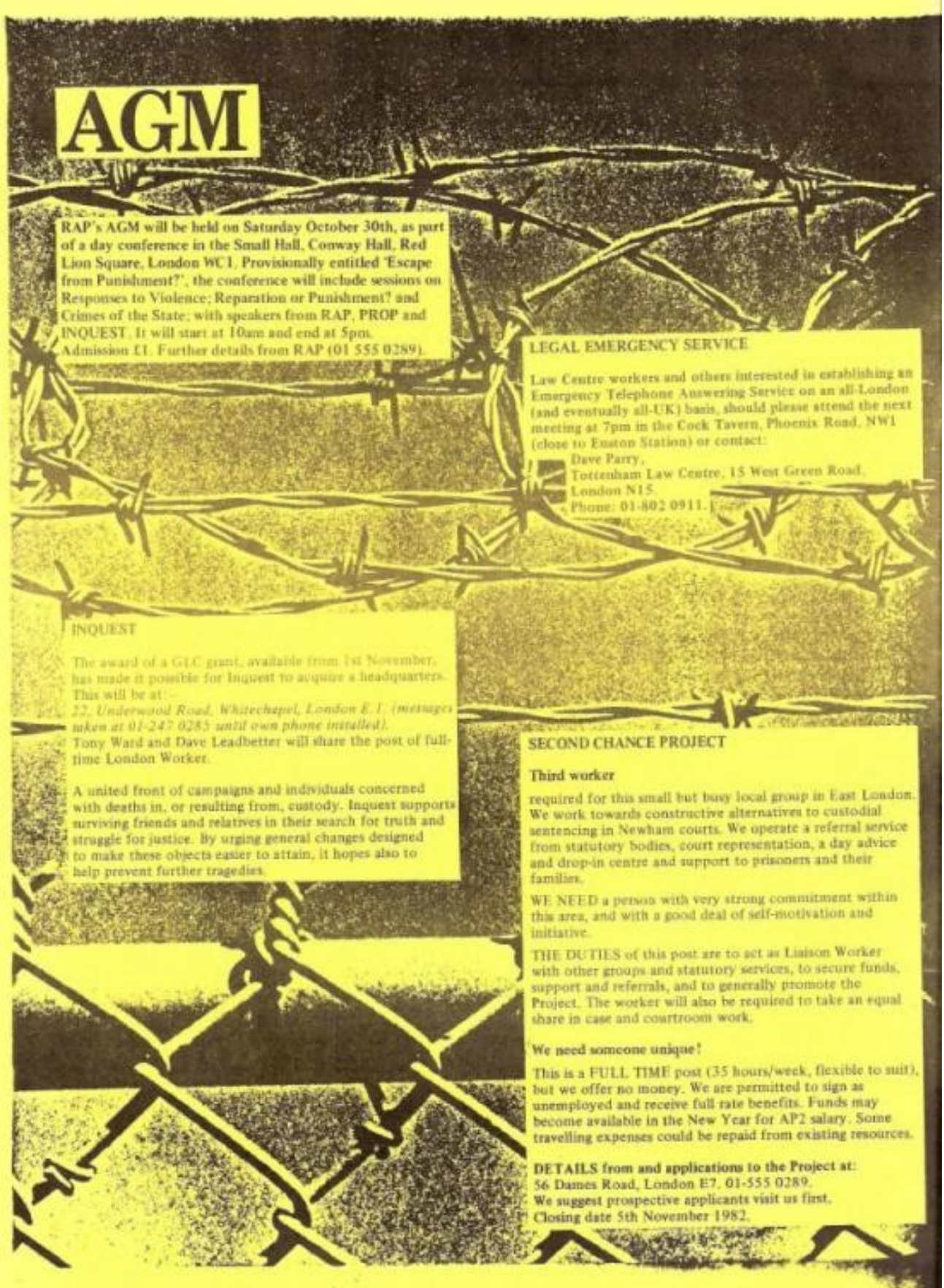

AGM

RAP's AGM will be held on Saturday October 30th, as part of a day conference in the Small Hall, Conway Hall, Red Lion Square, London WC1. Provisionally entitled 'Escape from Punishment?', the conference will include sessions on Responses to Violence; Reparation or Punishment? and Crimes of the State; with speakers from RAP, PROP and INQUEST. It will start at 10am and end at 5pm. Admission £1. Further details from RAP (01 555 0289).

LEGAL EMERGENCY SERVICE

Law Centre workers and others interested in establishing an Emergency Telephone Answering Service on an all-London (and eventually all-UK) basis, should please attend the next meeting at 7pm in the Cock Tavern, Phoenix Road, NW1 (close to Euston Station) or contact:

Dave Parry,
Tottenham Law Centre, 15 West Green Road,
London N15.
Phone: 01-802 0911.

INQUEST

The award of a GLC grant, available from 1st November, has made it possible for Inquest to acquire a headquarters. This will be at:-
22, Underwood Road, Whitechapel, London E.1. (messages taken at 01-247 0285 until own phone installed).
Tony Ward and Dave Leadbetter will share the post of full-time London Worker.

A united front of campaigns and individuals concerned with deaths in, or resulting from, custody. Inquest supports surviving friends and relatives in their search for truth and struggle for justice. By urging general changes designed to make these objects easier to attain, it hopes also to help prevent further tragedies.

SECOND CHANCE PROJECT

Third worker

required for this small but busy local group in East London. We work towards constructive alternatives to custodial sentencing in Newham courts. We operate a referral service from statutory bodies, court representation, a day advice and drop-in centre and support to prisoners and their families.

WE NEED a person with very strong commitment within this area, and with a good deal of self-motivation and initiative.

THE DUTIES of this post are to act as Liaison Worker with other groups and statutory services, to secure funds, support and referrals, and to generally promote the Project. The worker will also be required to take an equal share in case and courtroom work.

We need someone unique!

This is a FULL TIME post (35 hours/week, flexible to suit), but we offer no money. We are permitted to sign as unemployed and receive full rate benefits. Funds may become available in the New Year for AP2 salary. Some travelling expenses could be repaid from existing resources.

DETAILS from and applications to the Project at:
56 Dames Road, London E7. 01-555 0289.
We suggest prospective applicants visit us first.
Closing date 5th November 1982.