THE ABOLITIONIST

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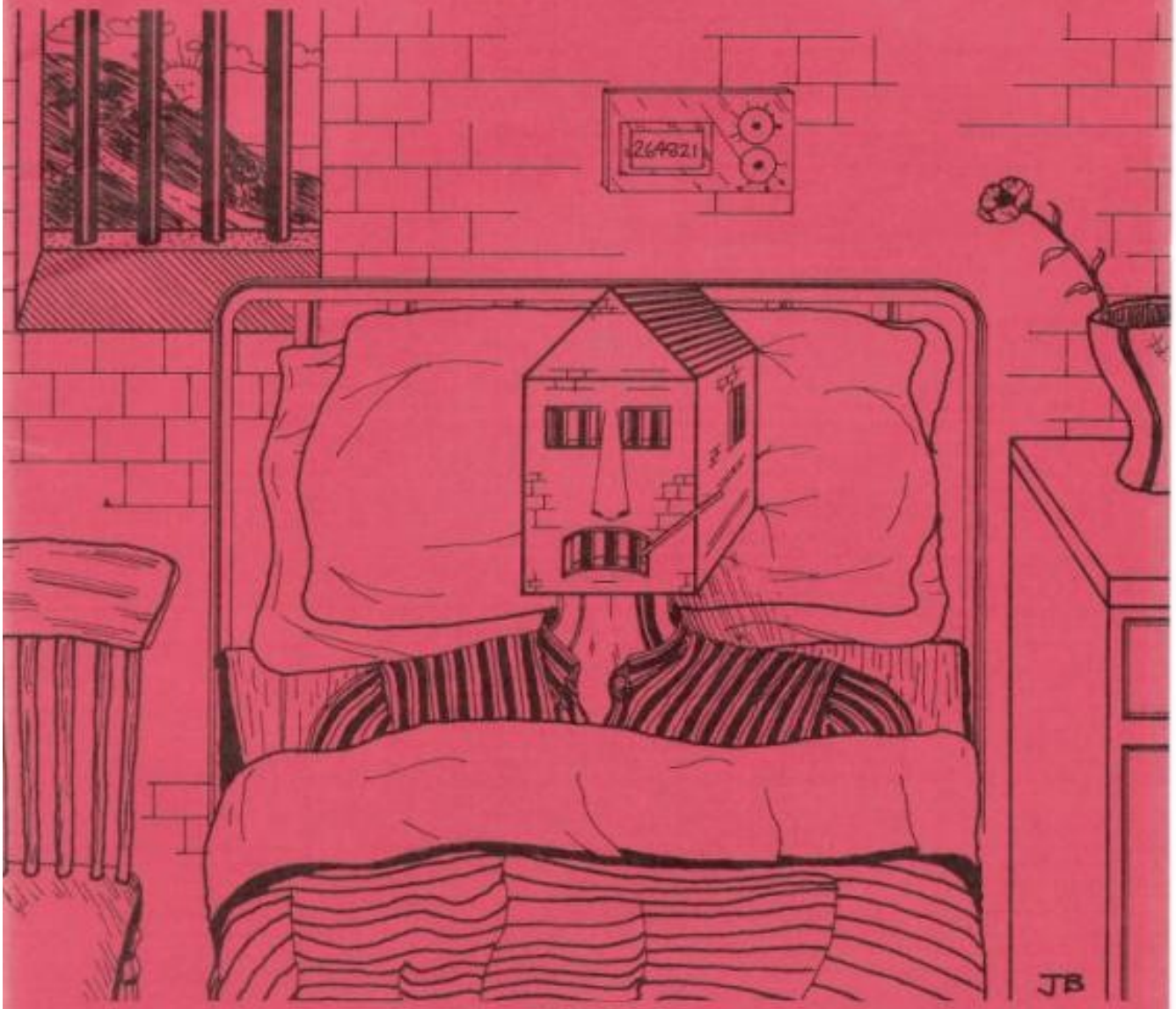
Number 7 Winter 1981

PRISON MEDICINE



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RADICAL ALTERNATIVES TO PRISON

RAP is a pressure group working towards the abolition of imprisonment. We do not believe that imprisonment is a rational, humane or effective way of dealing with harmful behaviour or human conflict. We believe that it functions in a repressive and discriminatory manner which serves the interest 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 economic position. Capitalism creates its own crime problem and no amount of tinkering with the penal system will solve it.

We recognize that there will be no possibility of abolition without fundamental changes in the social order. We also recognize, 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 without doubt they are a very small minority of the prison population.

A capitalist state cannot do without imprisonment, but it can make do with very much less of it than ours does, as other countries, notably the Netherlands, have shown. RAP supports measures to reduce the prison population by means of:

—an end to prison building;
—legislation to reduce maximum sentences and to end imprisonment for certain minor offences;
—decriminalization of other minor offences such as soliciting and the possession of cannabis;
—an end to the imprisonment of fine and maintenance defaulters.

The introduction of 'alternatives' like community service orders and intermediate treatment has not stopped the prison population from rising but has equipped the state with new implements of control and coercion. 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' like the Newham Alternatives project (NAP) and the Brighton Alternatives to Prison Project (BAPP). These work, as far as possible, independently of the state, and participation cannot be formally imposed by a court.

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.

The Special Unit at Barlinnie Prison gives some idea of what can be achieved by a less authoritarian and restrictive approach.

Some of RAP's medium-term goals are shared by other groups who do not share our political outlook. But RAP's overriding 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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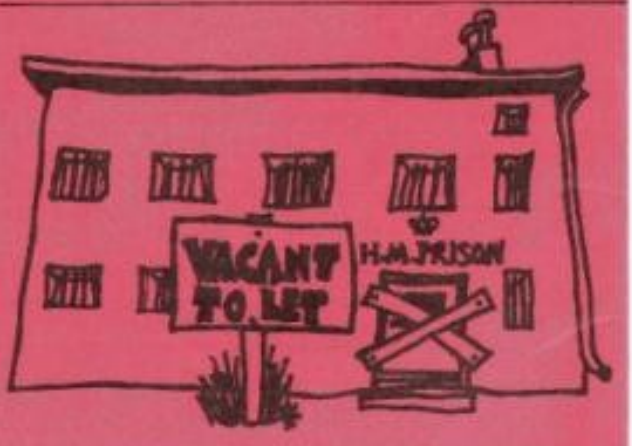
Cover Design/Cartoons by Josh Benn



PRISON DRUGS: official figures analysed

In the 1979 "Report on the work of the Prison Department" (Cmnd 7965, June 1980) the Home Office published, for the first time, statistics detailing the number of doses of drugs dispensed in British prisons, remand centres and borstals in 1979. Given the obsessively secret manner in which the Prison Department conducts its affairs, these statistics, forced out of a reluctant Home Office by sustained campaigning pressure, allow us a rare glimpse into the traditionally impenetrable gloom of prison medicine. They present all of us with an opportunity to further prise open the secret world of HM Prisons by closely cross examining the Home Office on the disturbing implications which stem from these, albeit limited statistical revelations.

Surprisingly perhaps, the figure reveal a great deal about the nature of prison medical care, far more, one suspects, than the Prison Department and certainly the Prison Medical Service would like the public to know. Despite consistent Home Office assurances that "Drugs are prescribed and offered to prisoners on the authority of the responsible medical officer in the same way as an ordinary NHS medical practice"(1), the publication of these statistics gives official substantiation to many of the allegations made by RAP, PROP and other members of the Medical Committee Against the Abuse of Prisoners by Drugging over the past two years.

Briefly stated, the Medical Committee's case is that prison doctors are dispensing unjustifiable amounts of psychotropic (and other) drugs under conditions which deny prisoners safeguards which they would enjoy as patients in other situations. It is for this reason that RAP and PROP are pressing for the disbandment of the Prison Medical Service or indeed of any prison medical service as such, even under NHS jurisdiction, and for its replacement by a direct doctor/patient relationship in which, for example, the various group practices adjacent to Wormwood Scrubs would include that prison within their area of operation. The doctors would be responsible to their patients and answerable to the Area Health Authority - a move which would permit other statutory bodies such as the Community Health Councils to fulfil their role of protecting patients' interests.

it is a well established fact and one which should not need to re-established in 1981, that drugs are used in British prisons as aids to discipline and control 'problem prisoners'. As long ago as October 1978 'The Sunday Times' quoted an article from the Prison Medical Journal which described how a group of prisoners at Albany prison "who from a medical angle....show no evidence of formal illness" and were regarded "purely as Albany discipline failure" were experimented on for control purposes. In his paper "Treatment of Psycopaths with Depixol" Dr McLeery, an ex-prison doctor, went on to explain how at first the prisoners were treated with an "umbrella" of psychotropic drugs but because dosages to combat tolerance reached such a level that they reduced the men to a "cabbage existence", this treatment was replaced by a course of injections of the tranquiliser Depixol.(2)

More recently, in May 1980, Home Office doctors gave further confirmation of the allegations concerning the drugging of prisoners. At the inquest into the death of George Wilkinson who died in Liverpool prison on December 5 1979, after refusing food and fluid for 17 days, a series of prison doctors described on oath their attempts to pacify and control Wilkinson with a wide variety of drugs. One doctor stated that Wilkinson was given so many drugs because they did not know how to treat him, admitting that "if we did, we would have used only one drug." He also admitted that prison doctors have difficulty balancing the medical needs of a patient against those of control. A second doctor prescribed a range of drugs and three doses of electric shock treatment to calm Wilkinson, though agreed in the inquest that ECT has no real effect on aggressive behaviour. Finally, a third doctor said that it was possible that unqualified prison staff gave out tranquilisers (such as valium) without prescription - although they could not give too much because the prison pharmacist would notice if the bottle went down much faster than expected.(3)

The point about 'The Sunday Times' article and the evidence given at the Wilkinson inquest is that in both cases admissions about the use of drugs to control prisoners have come from the mouths of official Home Office doctors. In the light of these two examples alone, the fundamental argument as to whether or not drugs are used for control purposes ought no longer to be with us. Yet, in commenting on the medical statistics in the 1979 Prison Department Report, the Home Office has issued the same blanket denials about drug abuse as before - "a medicine is prescribed only when, in the clinical judgment of the doctor concerned, it is necessary for the restoration of health or the relief of symptoms"(4)

The Home Office may well cry "Rubbish!" when it comes to denying the veracity of allegations which are based on information smuggled out of prison, and which are therefore extremely difficult to substantiate, but they really cannot dismiss the words of their own employees so easily. Nor can they avoid responsibility for the implications of the newly published medical statistics and it is the purpose of this paper to explain exactly what those implications are and what conclusions must be drawn from them.

The Table of Dosage Rates (below) shows the average annual dosage rate per man/woman of the three categories of behaviour modifying drugs listed by the Home Office (Appendix 6, Cmnd 7965) that were dispensed in British prisons during 1979. The dosage rates are presented in the form of a 'league table' with prisons dispensing the highest number of drugs per man/woman at the 'top' of the table.

The Table does not appear anywhere in the 1979 Report on the work of the Prison Department and hence is not an official Government Table. But it was produced by combining two sets of information that were included in the Report. Dosage rates were worked out by dividing the total number of drugs in each category dispensed in 30 prisons during 1979 (source: Appendix 6, Cmnd 7965) by the average daily population of each prison in 1979 (source: Appendix 3, Cmnd 7965). The Total Dosage Rate, column 4 of the Table, represents the sum of the dosage rates of the three categories of drugs as shown in columns 1-3.

Not all the prisons quoted in Appendix 6 have been included in the Table because in some cases the Home Office have bracketed together as many as 42 prisons to yield only one

TABLE OF DOSAGE RATES

Average dosage per man/woman per year in British Prisons, Remand Centres and Borstals of Psychotropic, Hypnotic and Other Drugs affecting the Central Nervous System . 1979.

ESTABLISHMENT	1. Psychotropic Drugs (antidepressants, sedatives and tranquillisers.	2. Hypnotic Drugs	3. Drugs acting on the Central Nervous System other than 1&2.	4. Total Dosage Rate.
HM Prison Holloway	514	232	195	941
1. 2 female open prisons	169	60	112	341
HM Prison Parkhurst	174	51	113	338
2. 3 female open prisons	266	5	54	325
HM Prison Brixton	217	45	37	299
3. 2 Female Borstals	125	11	91	227
HM Prison Cardiff	118	17	54	189
HM Prison Wandsworth	87	15	68	170
HM Prison Norwich	93	12	35	140
HM Prison Wakefield	61	18	50	129
HM Prison W'Wood Scrubs	38	10	49	97
HM RC Risley	42	8	47	97
HM Prison Durham	40	8	35	83
HM Prison Bristol	27	12	38	77
HM Prison Pentonville	37	11	27	75
HM Borstal Feltham	40	1	29	70
HM Prison Leicester	29	3	35	67
HM Prison Liverpool	22	3	33	58
HM Prison Birmingham	19	2	31	52
HM Prison Manchester	23	3	26	52
HM Prison Winchester	23	1	22	46
HM Prison Lincoln	18	1	26	45
HM Prison Leeds	12	1	30	43
HM RC Ashford	21	3	15	39
HM Prison Dartmoor	6	1	5	12
HM Prison Grendon	4	1	6	11

1. Cookham Wood and Styal
2. Askham Grange, Drake Hall and Moor Court
3. Bullwood Hall, East Sutton Park.

statistic in each of the three drug categories. In 4 such cases therefore (amounting to 83 prisons, borstals and remand centres) no dosage rate appear as their value in comparative terms would be very limited.

Analysis of the Table of Dosage Rates will fall into three main sections.

A. The presentation of the statistics by the Home Office

B. The implications of the Dosage Rates.

C. The general Home Office explanation of the statistics: a response.

A. The Presentation of the Statistics.

There are three major criticisms to be made of the way in which the Home Office has presented the medical statistics in Appendix 6.

First, the distinction made by the Home Office between "Psychotropic" drugs, "Hypnotic" drugs and "Other drugs affecting the Central Nervous System" is a meaningless one without further elaboration from the Prison Medical Service on exactly what drugs they place in each category. A certain drug could fall into more than one category depending on the time day it is dispensed. For example, some barbiturates, when taken during the day to sedate or pacify a patient, would be classified as psychotropic drugs but when used at night, to induce sleep, would be classed as hypnotic drugs.

Secondly, the broad nature of the Home Office categorisation disguises the fact that some drugs are far more dangerous than others while falling within the same division. Barbiturates, for example, are serious drugs of addiction which have caused and do cause more illness and death than any other drug of addiction, including heroin. Not only can individuals become dependent on barbiturates but they suffer extreme side effects if they are withdrawn, including going into a permanent state of epilepsy which if untreated ends in death. Despite the fact that there is an increasing body of medical opinion which would like all barbiturates banned (except phenobarbitone which still has a place in the treatment of epilepsy and of course the short acting ones which are invaluable for the induction of anaesthesia) they are still used by the Prison Medical Service.

Yet from the information provided by the Home Office in Appendix 6, it is impossible to distinguish between a relatively mild sedative like Nitrazepan (Mogadon) and a highly dangerous, addictive barbiturate like Amylobarbitone (Amytal) - both could appear in the category of Psychotropic drugs. Doctors working under the NHS are compelled to keep detailed records of every drug they prescribe and if, as the Home Office claim, Prison doctors have the same ethical standards as their colleagues practising outside prison, then they too should be required to present similarly detailed records.

Finally, as already pointed out above, the Home Office has lumped together into one figure the number of doses of drugs dispensed in 2,3 and in one case 42 prisons. The explanation for this practice is that in "those establishments in which medical services are largely provided by a single doctor.....it is not considered appropriate to publish information about an individual doctor's prescribing practice."(5) Such an attitude typifies the atmosphere of secrecy and the lack of public accountability that surrounds every aspect of the work of the Prison Department. The net result of the Home Office's desire to protect its employees from public scrutiny is that for 90 different penal establishments it is impossible to make accurate and meaningful comparisons of dosage rates.

Furthermore, it leaves the Prison Department open to the criticism that it is wilfully distorting the dosage rates of some prisons known to be 'liberal' in their dispensation of drugs. PROP, the National Prisoners' Movement, is confident that two women's prisons - Cookham Wood in Kent and Moor Court in Staffordshire - would return even higher dosage rates than they do but for the fact that they have been misleadingly bracketed with prisons known to be restrained in their use of drugs, thus levelling out the dosage rate.

B. The Implications of the Dosage Rates.

The two most striking features of the Table of Dosage Rates are 1. the enormously high dosage rates for women's prisons, in particular Holloway and 2. the wide variations in dosage rates for male prisons.

Women's prisons have long been the focus for allegations concerning the widespread use of psychotropic drugs. The publication of these medical statistics would now seem to support those who have expressed concern about the 'treatment' of women prisoners and in particular the characterisation of women offenders as being either mentally or physically sick.

The Home Office says, by way of explanation, that women prisoners receive more drugs than men prisoners "as an indirect consequence of the efforts made by the courts to avoid custodial sentences for women whenever possible: by the time that the courts decide upon a custodial sentence, the typical female offender is more likely to have a history of emotional disturbance than the typical male offender received for the first time into prison."(6) This picture of women prisoners as the few hard cases for whom a custodial sentence is the only solution is a distortion of the truth. According to NACRO, women are in some respects treated more harshly than men by the Criminal Justice System. NACRO points out that "37.5% of adult females received into prison in 1975 had no previous conviction, compared with 7.4% of adult males. It appears therefore, that many women are sentenced to short terms of imprisonment in situations where men with similar records would be given non-custodial sentences."(7)

Many of the women in our prisons have not even been convicted. In 1977, for example, 2,534 women were remanded in custody before their trial and over half of them were eventually given non-custodial sentences on conviction. Of the 1843 women sent to prison in 1977 after conviction, but before sentence only 593 actually received a sentence of imprisonment.

As for those women who are sentenced to terms of imprisonment, it is widely acknowledged that most should not be there at all. As long ago as 1970, the Home Office stated that "it may well be that as the end of the century draws nearer, penological progress will result in even fewer or no women at all being given prison sentences. Other forms of penalty will be devised which will reduce the number of women unnesessarily taken from their homes, which so often ends in permanent disaster and breakdown in family life'. (8) The vast majority of women in prison have been sentenced for petty offences of theft, failure to pay fines or for a variety of 'crimes without victims' such as prostitution and offences connected with drugs and alcohol. Many authorities, including the All Party Penal Affairs Group, have called for the decriminalisation of this latter category of offences.

With these facts in mind therefore, the dosage rates for women's prisons must give rise to grave concern about the extensive use of behaviour modifying drugs as aids to control and pacify prisoners. The rate for Holloway prison of 941 doses of psychotropic, hypnotic and other drugs affecting the central nervous system per woman per year is particularly disturbing and demands further explanation from the Home Office. The whole idea that women offenders are 'sick' individuals - mad rather than bad - requiring psychiatric treatment in a medical sense, is one that must be strongly challenged.

'abnormal'

There is a tendency to regard women offenders as 'abnormal' and disturbed people by definition because they are relatively uncommon. Many women in prison do have considerable personal and social difficulties (as do many male prisoners) and do need treatment or help of various kinds. But prison in itself is an abnormal experience and to judge clinically a women's mental condition in such a situation is fraught with danger. Equally, to help her adjust to such a situation by the administration of psychotropic and hypnotic drugs must be inappropriate.

The dosage rates for male prisons present us with a slightly different set of problems from that of women's prisons. For while women's prisons and borstals consistently return high dosage rates, taking up 4 out of the top 6 places in the Table, the dosage rates for male prisons and borstals vary to high degree: some are very low but others are high. The Home Office expresses no surprise or concern over any specific dosage rate, merely stating that "as expected, the statistics suggest differences in the dosage rate between different establishments. The nature of the population and its needs differs from establishment to establishment and different doctors have different prescribing practices."(9)

While it would be unreasonable and, indeed highly suspicious to discover that the dosage rates are broadly the same regardless of the type of prison, there are some dosage rates which are extremely puzzling and disturbing. Three examples stand out as being particularly mystifying:

1. Cardiff and Leeds prisons are both described in Appendix 3 of the 1979 Prison Department Report as being "Local Prisons for men". Yet while Leeds has a dosage rate of 43 per man per year, Cardiff's is over four times higher at 189 doses per man per year. This difference is especially hard to reconcile with the fact that Leeds prison is one of the most overcrowded prisons in the country, holding almost twice as many prisoners as the figure for certified normal accomodation. It would seem that in Leeds prison, at least, the prison authorities have found ways of controlling the tensions created by overcrowding without a heavy dependence on psychotropic drugs.

innocent

2. Brixton is a remand prison, its 1,017 inmates (the average daily population for 1979) "innocent till proved guilty". Between 40 and 50% of remand prisoners are subsequently found not guilty or are given non-custodial sentences. These are people who need clear heads to face their trials and prepare their defence. Yet Brixton has the second highest dosage rate for any male prison - 299 doses of drugs per man per year . Incidentally, Brixton prison also has the highest death rate according to the latest available statistics: almost three times as many people died in Brixton as in Manchester prison over the past decade - yet Manchester has more prisoners.

3. The dosage rate for Grendon Underwood prison presents us with another curious paradox. The Home Office says that drugs are widely used in our prisons because of the high number of mentally ill people in prison. Yet Grendon, which is a special psychiatric prison for mentally ill offenders, records the lowest dosage rate of any prison, remand centre or borstal. Consider, by way of contrast, Park:

prison which has a dosage rate 30 times greater than that of Grendon - 338 doses per man per year as opposed to 11. Grendon's low dosage rate clearly shows that there are ways of treating mentally ill offenders which do not require the use of heavy doses of behaviour modifying drugs. If Grendon is able to contain its population without the widespread use of drugs, why, thep, do other prisons with proportionately far fewer mentally disturbed prisoners need to prescribe as many as 300 doses of drugs per man per year?

It is important to stress that RAP is not saying that there is a "normal" acceptable dosage rate for our prisons which is being exceeded in some instances. Such a dosage rate is impossible to give. What we are saying is that there are certain dosage rates which cannot be explained by the Home Office's covering statements: indeed, some of the dosage rates clearly contradict these covering statements. The Home Office must be pressed to give a fully adequate explanation of their statistical information. At present, the statistics they have provided confuse rather than clarify and beg more questions than they answer.

C. The General Home Office explanation of the medical statistics: a response.

In its general explanation of the medical statistics given in Appendix 6, to be found on pages 48-49 of the 1979 Report of the work of the Prison Department, the Home Office make several statements which require further comment.

In paragraph 173 of the Report, the Home Office say that extensive use of psychotropic and other drugs acting on the central nervous system "mirrors the pattern of wide use of such drugs in general medical practice in the community. It also reflects the presence in the prison population of a relatively larger proportion of e.notionally disturbed or mentally unstable prisoners than some years ago."(10) While it is clearly true that behaviour modifying drugs are widely available and used outside the prison walls - some £10 billion was spent on tranquilisers in Britian in 1978 - the statement that the ever increasing use of psychotropic drugs in prisons reflects the rising number of prisoners with mental disorders is highly tendentious.

It is undeniable that prisons contain some people who require psychiatric help. However, quite apart from the fact that mentally ill people should newer be in prison in the first place, they are statistically a small group of people who cannot account for the widespread use of drugs in our prisons. The lie to this implication is given by the sheer size of our prison population. To make just one compariosn, whereas England and Wales has 44,000prisoners, Holland has just 3,100 men and 60 women. Even allowing for the different sizes of the countries, this is still a ratio of 4:1. Thus when the Home Office speaks of a high proportion of our 44,000 prisoners requiring medical treatment for mental illness, it is referring to people of whom 33,000 or so would not be in custody at all in some other countries. Home Office reasoning leads to the conclusion that mental illness is far more widespread in Britain than in Holland, Sweden or Denmark.

ethics

Finally in paragraph 177 of the Prison Dept Report, while the Home Office acknowledges that the practice and ethics of the Prison Medical Service have come under increasing scrutiny both from Parliament and in the media over the past two years and records that this interest stemmed partly from the circulation of allegations that medicines were being used to control prisoners' behaviour as an aid to discipline, the Report goes on to say that " it is worth restating here the important principle that medical officers have complete clinical freedom and the same ethical standards as their colleagues practising outside prison; a medicine is prescribed only when, in the clinical judgment of the doctor concerned, it is necessary for the restoration of health or the relief of symptoms."(11)

The latter part of this assertion has already been shown to be false by reference to the leaked article from the Prison Medical Journal, detailing experiments with the drug Depixol, and to the admissions of doctors at the inquest into the death of George Wilkinson that they give Wilkinson a variety of drugs to pacify him. The statement that prison dcotors have the same ethical code of practice as any other registered medical practitioner is similarly untrue, though it is one that the Home Office always make when faced with questions concerning the Prison Medical Service. To make such a claim is to ignore the many ways in which the classic doctor-patient relationship is undermined in the practice of prison medicine. In supervising dietary punishments, witholding drugs to addicts, administering drugs in order to tranquilise violent prisoners, in examing prisoners given sensory deprivation punishments (as in the Control Units) prison doctors can hardly be said to be encountering the same ethical problems as their colleagues outside.

That this is so was confirmed by Dr Paul Bowden, Consultant forensic Psychiatrist to the South West Regional Health Authority and a prison consultant, when he said that "it is not possible to be responsible for the physical and mental health of a prisoner and also to sanction his punishment, on the grounds that he is fit to receive it, by methods which may be prejudicial to health. Although it might be proper for a medical practitioner to act in either role - as physician/arbiter or physician/healer, it is obviously not appropriate for him to act in both capacities and this conflict was recognised by the World Health Organisation."(12) Dr Bowden further commented that "it seems quite ethical for a doctor to have divided loyalties as long as his patient realises both the full implications of the situation and importantly, that he also has the opportunity to be treated by a doctor who does not have such a role."(13)

This opportunity is not available to prisoners. The Home Office is resistant to any outside scrutiny of prison medicine, let alone transfer of control to the National Health Service and absolutely refuses to allow independent examination of prisoners.

conclusion

The publication of statistics detailing the number of doses of drugs dispensed in our prisons is to be welcomed as a move towards greater openness on the part of the Prison Dept. Yet the mere fact that we should be greeting this as a breakthrough indicates the extent of secrecy surrounding the administration of our prisons which we, in Britain, have grown accustomed to. Rather than resting on our laurels for forcing the Home Office to publish information which they would rather keep secret, we should be pressing for more detailed information and completely open access to our prisons *as a right*, not as an occasionally generous concession for which we should be grateful.

This process of applying pressure should begin by demanding that the Home Office gives a fully adequate explanation of the information which they have consented to release to a public starved of knowledge of what goes on in their name behind the prison walls.

Notes:

1. **Hansard Written Answers, 21.6.76. col 312**
2. **Prison Medical Journal, winter 1978 pp 34-37**
3. **'Prison Medical Care Exposed' by Terry Munyard in 'Rights' Vo 1 no 6.**
4. **Report on the work of the Prison Department 1979. p49**
5. **Ibid p 84**
6. **Ibid p 48-49**
7. **The May Inquiry: a review of the submissions p 3 NACRO**
8. **Treatment of Women and girls in custody. Home Office 1970**
9. **Report on the work of the Prison Dept, p49**
10. **Ibid p48**
11. **Ibid p 49**
12. **Medical Services for Prisoners: Kings Fund/Howard League Conference 1978.**
13. **Ibid.**

TIM OWEN.

sentencing: the case of ben wilson

By the end of 1980, BEN WILSON had spent eight years in prison after having been convicted in 1972 of buggery and indecent assault. The trial judge, Mr Justice May, sentenc ed him to life imprisonment, with the explicit proviso that Wilson should be released if 'some form of treatment for [him] can be found'.

The basis of the sentence was a judicial policy, which is still in practice, with two specific aims: first, preventative detention for the protection of society; second, to place the offender in an institution which would provide facilities for 'treatment'.

These criteria reflect a shift in penal policy away from punishment and towards reformation or rehabilitation. Notionally the prison becomes like a hospital, with every patient diagnosed and allocated to that part of the institution designed for his needs.

But, of course, prisons are nothing like that. In eight years Ben Wilson has received almost no treatment, and the Home Office has made it clear that it sees no reason to issue specific instructions with regard to him. As far as the prison administration is concerned —and this is what counts— he may well never be released.

This means that Ben Wilson finds himself in a worse situation than if he had simply got a fixed sentence as punishment for a particular crime. As things stand, he has to struggle with a secretive bureaucracy, and deprived of almost all civil rights, in order to obtain the very treatment he was sent to prison for.

Superficially, the failure of prison to anything for Ben Wilson (except detain him) results a discrepancy between the intentions of penal policy and the resources available to fulfill them. But this in its turn is only a symptom of the inability of prison by its nature to solve social problems.

Treatment itself is an ambiguous word used in the context of prisons. It assumes a state of knowledge about the causes of social deviancy which is complete enough to provide prescriptions for individual malfunctions. But if this were so, it would be logical to tackle problems at root before crime was committed, and prisons would become largely redundant as a matter of course.

As this has not happened, and prison has continued to fail by its own standards, it has become obvious that penal policy was mistaken; and the Home Office has in practice dispensed with the ideology of treatment. Particular courses for particular prisoners can be succesful (but only rarely) while the institutional framework has become a question of population logistics and classification according to need.

However, the courts still operate as if prisons were treatment centres; handing down sentences which bear no relation to the actual treatment someone can expect in prison. And in the case of the indeterminate life sentence, the prisoner ends up in the same situation as Ben Wilson.

Excluding retribution, the only possible justification for imprisonment is preventative detention. Public opinion is very sensitive to sex offences, and consequently this type of offender is often given a long or a life sentence.

As usual, the only real result is individual suffering. The prisoner is locked up because of an aspect of his personality as much as anything else. But given that the number of sex offenders in British prisons is relatively small, surely an alternative can be found to the wastefulness of imprisonment. If somebody is emotionally disturbed some form of supportive human contact is required. This may or may not mean medical treatment, which raises a whole set of problems about social attitudes to sexuality beyond th scope of this article. But certai nly prison, by reducing the communication between sex offenders and the rest of society, does nothing to help.

(Ben Wilson is currently awaiting the result of his second Parole appeal.)

Chris Wallace.

stop press

RAP is setting up three Working Groups to investigate the following areas. Membership is open to anyone interested in particigm participating, members and non-members.

1. The Prison Building Programme and its implications

2. Sexual Deviancy and Penal Policy

3. Medical Treatment in Prison.

If you are interested in joining one or more of the groups further details can be obtained from RAP, 182 Upper Street, London N1.

We have just heard that Rising Free are moving from 182 Upper Street in late March (their lease has run out). This means that from that time on, RAP will be office-less. Anyone who has a cheap, small room to let (£5-7.50 per week) preferably in Central London should contact RAP at 182 Upper St N1.

8 richard campbell & matthew o'hara

On March 1 1980 Richard Campbell, a 19 year old Londoner and a Rastafarian, was arrested in Brixton, taken to the police station and held over the weekend. He appeared in Camberwell Magistrate's Court on March 3 and was remanded to Lewes Prison. A week later he returned to Camberwell to be convicted of the attempted burglary of a sportshop in Brixton. He was sent to Ashford Remand Centre for social and psychiatric reports. Three weeks later he was found dead in his cell. The preliminary inquest attributed his death to dehydration resulting from schizophrenia.

On March 12 1980, Matthew O'Hara, a 41 year old man from Hackney, was sent to Pentonville prison for 7 days for contempt of court during a hearing on alleged rate arrears. On March 16, Matthew wsa rushed to the Royal Northern Hospital in a critical condition and was taken into intensive care. He had been vomiting blood for which he was treated but after examination was found to be a diabetic in a severe ketosis (the accumulation of poisons in the body caused by lack of insulin.) Though he discharged himself from the Royal Northern Hospital, he continued to have stomach problems and vomit mucus almost up to the time of his death two months later.

How two healthy people could undergo such a drastic deterioration in their health in such a short time has yet to be satisfactorily explained by the Home Office. Though the circumstances of their deaths are not the same (Matthew O'Hara did not die in prison) their experiences while detained do have much in common. What is more, the two committees formed by friends and relatives of the dead men to discover what exactly happened to them while in custody, have come up against the same obstacles - obsessive secrecy, evasion, delay and distortion on the part of the Home Office.

Official enquiries have so far failed to establish the train of events leading to the death of Richard Campbell in Ashford and the near death of Matthew O'Hara while in Pentonville. At the inquest into Richard's death, the Coroner called all the witnesses and asked nearly all the questions. The family's lawyer was not allowed to call any witnesses or get certain documents presented. All the medical witnesses, bar one, stated that Richard was a schizophrenic. Evidence of his schizophrenia were his allegedly confused ramblings about Jah, going to Africa and helping the poor. Anyone familiar with Britain's black population would have recognised Richard Campbell as a Rastafarian.

Dr Greedhary of Southall Psychiatric Hospital (where Richard was taken after allegedly throwing a vase at a prison officer while in Ashford General Hospital) said Richard was rational and coherent when he saw him. No explanation was given at the inquest (or since) as to why Richard went on hunger strike, why the medical staff at Ashford failed to maintain the proper balance of fluids in Richard's body when they decided to force feed him nor why the drugs Largactil, Stemetil and Depixol were present in his body when he died.

In the case of Matthew O'Hara, the Home Office have denied the allegation, made by Matthew before he died, that his stomach injury was due to an assault by a prison warder. They admit however that Matthew received no treatment for his diabetes while in Pentonville. They claim that like Richard Campbell, Matthew was mentally unbalanced and concealed his need for insulin from the prison medical staff. Even if he did, for some reason, conceal the fact of his diabetes, this would not explain why he was coughing blood when he left. No explanation has been given by the Home Office of documentary evidence suggesting that Matthew was seriously ill in a cell for two days without medical attention.

The allegation of insanity has been refuted by Matthew's own doctor who described him as " an unusual and somewhat eccentric personality, highly intelligent..... very articulate,.....with strong views that might not be orthodox or correct but were not irrational."

Before Xmas, Mr Andrew Roberts, a friend of Matthew, submitted 38 questions to to the Home Office via Hackney MP Stanley Clinton Davis asking for specific details of all Matthew's movements and interviews, details of his diet and the onset of his illness at Pentonville prison. When we went to press, the Home Office had still not answered these questions.

Both the Matthew O'HaraCommittee and the Richard Campbell Committee desperately need financial support. Donations should be sent to the following addresses:

The Matthew O'Hara Committee, 177 Glenarm Rd, Hackney, London E5 ONB. Tel; 986 5251

The Richard Campbell Campaign, 135 Lavender Hill, London SW11.

Tim Owen.

brother jailers

The prison officers' dispute, which began in September 1980, has confounded so many commonly-held attitudes that commentators have been hard-pressed to understand the issues. Most have not even tried. As early as the third week in the dispute, the reporter of one of our tabloid dailies waited outside Durham prison early one morning hoping to interview prisoners being released at the end of their sentences. He got his interviews all right, but not the stories of confrontation and imminent riot that he expected. Instead, the prisoners told him that it was not the prison officers but the authorities that were causing the trouble. The reporter, unbelievingly, contacted the National Prisoners' Movement (PROP) to ask for our comments. We replied that we were not at all surprised and that, by and large, this coincided with the feedback we were getting from prisons all over the country. Presumably the truth was not lurid enough to be printed; anyway, nothing appeared in the next day's edition.

home office nonsense

Obviously, at some prisons - and particularly at police stations - the prison officers' industrial action is causing considerable discomfort to prisoners. As in other institutions which deal with people rather than with production, it is inevitable that people will suffer. But in the current actions there have from the start been strong indications that the POA is trying to pursue a policy which causes the minimum provocation to prisoners, aiming their militancy instead at their employers, the Home Office. Their tactics have thrown the Home Office into confusion, reduced Mr Whitelaw to talking increasingly contradictory nonsense, and left the Fleet Street leader writers thrashing about with outdated and irrelevant scripts.

Prisoners are so accustomed to seeing their own protests misrepresented by Fleet Street that they were cynically unsurprised to see the same propaganda weapons turned against those who had so often oppressed them. Once it is recognised that the main oppressor is the state authority itself - the Home Office - then it follows that in every dispute the Home Office will try and clear itself at the expense of (usually) prisoners, but in this case, prison officers.

Yet Mr Whitelaw himself really gave the game away when he spoke on television to introduce his emergency measures for dealing with the dispute. How was it, he asked, that the prison officers, this body of men and women with a long record of public service, could be prepared to throw the entire penal system into chaos over so petty a complaint? It was at this point that the rest of us should have turned that same question onto its head. Why, we should have asked, has the Government been prepared to throw the courts into confusion, fill police cells to bursting point, and call in an army strike-breaking force - all over a matter which Mr Whitelaw himself would have us believe is petty?

The answer is that the issues are far from petty - particularly to this Government. What is at stake is the fundamental trade union procedure of the right to go to independent arbitration over an unresolved dispute. It is that, and not the claim for mealbreak allowances itself, that brought the POA into nationwide militant action. In trade union terms the POA has an unanswerable case, and its single-minded pursuit of that case reflects the shopfloor experience and attitudes which, with recruits from amongst the growing army of unemployed, have been seeping into the prison service in recent years.

urban warfare

That, of course, is where the Thatcher Government has dug in its heels: the prospect of prison officers, the uniformed servants of the State, beginning to behave like proper trade unionists must be nipped in the bud. So we now have the Home Office locked in a head-on struggle with the prison officers over a straightforward trade union principle, when, under successive governments, that same Home Office has been quite unprepared to take action where it really matters - by challenging the bully boys and the National Fronters.

The course of the dispute entirely accords with this analysis - which, incidentally, is not hindsight but was presented in an issue of the PROP journal over a year ago. That was when we responded to the belated publication of the May Report by describing the setting up of that enquiry by the previous Labour Home Secretary Merlyn Rees, as a cynical manoeuvre to buy time so that an army strike-breaking force could be prepared. That is precisely the weapon which the Tory Government has inherited - as it has inherited so much else - and is now putting to practical use. The demonstration that behind the police and prison services, and prepared to bring even them to heel if necessary, there lurks the army, trained and tempered in urban warfare, is clearly intended to impress the rest of us as we face rapidly escalating levels of unemployment and social unrest.

In accordance with their stated aims, the POA opened their industrial action by refusing to admit new prisoners into many prisons which exceeded authorised levels of accomodation. And they refused access to outside contractors or contractors' supplies, thereby shutting down prison workshops and hitting at prison industries and the revenue they provide to the Home Office - a clearly legitimate industrial target. At the same time, in many prisons, they offered to undertake alternative duties which would allow prisoners out of their cells. The Home Office immediately countered by instructing prison governors to permit no rescheduling of prison officers' duties - in other words, doing its utmost to provoke the confrontation between prisoners and staff that the POA, for once, was trying to avoid.

10 prison crisis

The media's attention was then aimed at the discomforts endured by prisoners held in rapidly filling police cells - because of the POA refusal to accept new intakes in many prisons. Lord Belstead, Minister of State at the Home Office, expressed the hope that prison officers would end their action, adding, 'Prisoners being locked in their cells for 22 hours a day could not be countenanced for very long'. (Times 17.10.80.) The newspapers obediently held up their arms in horror, ignoring the fact that the Home Office has been countenancing precisely those conditions for year after year - irrespective of the prison officers' dispute. If the prison officers were to resume normal working (i.e. gross levels of overtime) tomorrow and were henceforth to behave like angels, the prison crisis, produced by having the largest prison population and the longest sentences in the whole of Europe, would remain.

tiny minds

The POA tried to draw attention to deliberate Home Office provocation and the stirring up of trouble between prisoners and prison officers, but made little headway. An indignant Mr Whitelaw got more publicity: 'If we used such tactics we would be out of our tiny minds and would deserve to lose our jobs'. (Guardian 24.10.80.) Taking him at his word, he should have been sacked the following day when a Home Office circular to all prison governors came to light. Signed by Mr Gordon Fowler (of Hull riot notoriety), now Deputy Director of the Prison Department, it said that the indications were that the POA was trying to preserve the goodwill of prisoners in its handling of the dispute. The letter to the governors then stated, **'At a personal level, do not hesitate to use your inventiveness and ingenuity, especially in terms of press and media interviews, especially touching on possible disruptions to prisoners' visits, correspondence, transfers etc.'**

The Daily Telegraph published a 'firm Home Office denial that any such letter had been sent'. The Guardian, despite the fact that it had seen it, weakly referred to it as 'an alleged' letter. The letter is not 'alleged', nor can it be denied. Indeed, the Home Office was forced to publicly concede its existence when PROP displayed it an Thames Television.

The dirty and dangerous game played by the Home Office in trying to sharpen this dispute could easily by now have resulted in deaths and serious injuries to prisoners and prison officers alike. The national press, for all its shock warnings a year or two ago of the likelihood of 'Attica' riots in our prisons, has aided and abetted the Home Office by using every opportunity to misrepresent the prison officers' case.

danger

With prison officers concerned for their public image, and prison populations reduced to levels which they haven't seen for twenty years or more, the prisons have, generally speaking, been less tense during the current prison officers' dispute than they normally are. But there is no ground for complacency. Just as prisoners are driven to riot by the media's refusal to take them seriously when they undertake less dramatic protests, so is it likely that the prison officers, antagonised by the Home Office, isolated and ignored by the trade union movement which should be critically supporting them, and grossly misrepresented by the press, will be tempted to revert to their traditional tactics of provoking prisoners into fighting their battles for them.

If that were to happen, a heavy responsibility will lie with people who have never even seen the serious side of a prison - newspaper editors who are scarcely likely to, and trade unionists who are only too likely to if the present Government's economic policies and its continued build-up of state forces are not effectively countered.

Geoff Coggan
Secretary, PROP (the National Prisoners' Movement)

PRISON DEATHS AND THE CORONERS COURTS

Deaths in prison are an inevitability, given the age distribution of people in prison, the length of sentences imposed and the range of illnesses which people bring with them.

Imprisonment, however, puts an exceptional strain on inmates, and this strain is not confined to long-termers.

Both the archaic and overcrowded conditions and the highly punitive regimes of British prisons take their toll of the physical and mental conditions of inmates. It is in that sense, as well as in acts of violence, that prisons brutalise. That personal violence occurs, between prisoners and between prison officers and prisoners, is indisputable. However, the extent to which the general process of brutalisation and the specific acts of personal violence contribute directly to deaths in prison custody needs thorough consideration.

This is even more necessary because of the veil of secrecy drawn over many of the daily events in prison and because the Prison Medical Service stands independent of the NHS. Unlike deaths in any other form of custody, prison doctors are not independent of the institutions they work in.

So, when a death in prison occurs, the establishment of the facts surrounding it is usually based only on the evidence of those charged who had custody of the deceased. If death occurred during a confrontation with officers, following incidents involving prison staff or where dereliction of duty might have occured, there is little likelihood of any evidence other than that of prison staff being available.

This is not to suggest that all prison staff conspire to cover each others' malpractice - but it does severely challenge the secrecy and relative autonomy which protects prison staff from an effective complaints procedure. Recent cases certainly indicate that the whole issue of deaths in custody should be scrutinised carefully with a view to redefining procedure.

It is these questions which Roger Geary's briefing paper for NCCL **Deaths in Prison** raises in a well-constructed analysis of the 'legal procedure relating to deaths occurring in prison service establishments'. His critical assessment of the structural arrangements and accepted practice adopted for prison deaths illustrates a range of specific problems. In order to maintain some measure of legitimacy for their operations, closed institutions are governed procedurally by a mass of regulations. As Geary states:

> **'Virtually all possible contingencies of prison life are regulated by a complex network of rules'.**

He lists the Prison Act 1952 and the Prison Rules 1964 (as amended) and the confidential Standing Orders, Circular Instructions and the Governor's Handbook. These latter directives represent the structure of confidentiality which exists between the Home Office and the Prison Service. Although the legislation about prisons may be publicly debated, this unique relationship is not subject to the same scrutiny. Moreover, whilst the complex framework of regulations seems to give a rigorously defined prison procedure, the reality is that wide discretionary powers are given to senior management.

Prison deaths illustrate this paradox only too clearly. On the one hand, procedure in the event of death is specific. Prison Rule 19 obliges the prison governor to inform next of kin or a relevant interested party in the event of serious illnesses, severe injury or death. In the case of death, the Coroners Acts oblige the governor to notify the Coroner, the Board of Visitors and the Secretary of State. They oblige the Coroner to hold an inquest before a jury. As Geary states, the procedure seems to be 'both sensible and humane' and leaves 'virtually no room for discretion'. In practice, however, the situation is different.

Geary quotes Parliamentary evidence to show that the Home Office could not supply information on the practice of notification of next-of-kin. He cites two recent cases where this notification did not occur. He suggests that the lack of definition in Rule 19 of *'seriously* ill', *'severe* injury' and 'mental *disorder'* allows the governor considerable discretion. This often results in a condition being interpreted merely as 'serious' by prison authorities, when (by normal medical criteria, at least) it should properly be considered 'critical'.

Geary also shows that as 'prison' is not defined in the Coroner's legislation, other institutions (e.g. detention centres, borstals and community homes) are not treated as 'prison'. Thus, although it is regular practice, there is no legal duty to hold inquests into deaths in any other form of custody than an adult prison. The Home Secretary's proposed reforms in legislation about deaths in custody (announced on November 12th 1980) refer only to deaths in police custody - they make no mention of any other institutions.

Another problem of definition is about deaths which occur *after* detention in custody, but as a result of treatment in custody. This is not to say that all deaths of people who have been in custody require investigation. But there have certainly been several questionable cases, and they never appear in official statistics. The recently published figures of deaths in police custody and in prisons is therefore only a proportion of deaths which *might* be directly related to custody. Any legislation should take account of this - the *place* of death should not override the intention of legislation, which is to establish the *cause* of death.

Geary also questions the adequacy of the inquest as a forum for "safeguarding prisoners against negligence or abuse by Prison Officers". In this statement he is concerned particularly with the discretion of Coroners to call witnesses to their court. He cites one case in which eleven prisoners petitioned a Coroner that they might be granted a hearing before the court. This access was denied them by the Coroner. Yet it should be the practice of Coroners to call anyone to submit evidence 'touching on the death' with which they are concerned.

Geary raises the now well-publicised debates about Coroner's procedure - the Coroner's officer is usually a seconded police officer, Coroner's juries are selected on that officer's direction, families cannot be granted legal aid for the inquest. The resolution of these issues along with the introduction of the procedure of 'discovery', used in other courts, and the right of interested parties to summon witnesses form the basis of his recommendations for reform of the Coroner's process.

Whitelaw has accepted the recommendations on Coroner's officers and juries but refused to accept the recommendations, contained in both the 1971 Broderick Report and the Home Affairs Committee report, on legal aid. However, even if all the reforms proposed by these two enquiries were implemented, it would not be enough to ensure a full and independent investigation of deaths in custody.

liability

The most significant and insurmountable barrier to this is the fact that the inquest cannot establish liability. The sole function of the Coroner's court is to establish the cause of death from a series of pre-defined verdicts. Until this year the jury could at least add riders to verdicts, which whilst taking care not to indicate precise liability, could indicate unease at certain situations.

This happened in the well publicised case of Richard 'Cartoon' Campbell. The jury clearly made their feelings known in a question to the Coroner which indicated that they were thinking of neglect by the Authorities as a contributory factor. They were directed that no such verdict was available (although 'lack of care' is such a verdict) and towards 'self-neglect'. The eventual verdict was that of death by self-neglect but in their rider the jury indicated dissatisfaction with the care available in such cases. An amendment to the legislation has now taken away the right of juries to add riders. Whilst this is consistent with the 1977 legislation, which removed the court's power to establish liability, it underlines the extent of the limitations placed on the inquest and therefore it's inadequacy as an investigative process.

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Apart from the range of problems inherent in the Coroner's process indicated above, there are other crucial issues of procedure which compound the problem. Recent cases of deaths in police custody provide clear evidence of this. The inquest functions to determine the physical cause of death from 'the best evidence available'. Availability of evidence however, is a negotiated issue. As the court is not allowed to indicate liability, the Coroner informs witnesses that they need not offer any evidence which might incriminate them. In the Blair Peach and Jimmy Kelly inquests the reports of the senior officers who investigated the relevant complaints against the police were ruled as confidential. In both cases the investigators had taken extensive statements from all police officers involved and these were submitted to the Director of Public Prosecutions in the investigating officers' reports.

The Director decided against prosecution of any of the officers involved and thus the adjourned inquests were resumed. The Home Secretary, Willie Whitelaw, evidently not satisfied with the Director's decision , chose to await the outcome of the inquests before deciding on the need for a public enquiry. As the inquests would have to adjourn, in accordance with the law on the subject, if criminal or civil liability were indicated, the Home Secretary's decision could only be construed as being directed towards the verdict. Following the juries' verdicts of Death by Misadventure, the Home Secretary rejected applications for a public enq uiry into either case.

The testimony of the arresting and detaining officers, however, was merely that which they gave before the Coroner's court. Unlike the testimony of civilian witnesses its reliability was never tested against their previous statements. This was because those statements, taken prior to possible disciplinary proceedings, were granted privileged status by the Coroner. In the case of Jimmy Kelly, the centrality of those statements to establishing what happened to him whilst in custody, and immediately prior to his death, caused them to become the focus of extensive legal wrangling and disagreement throughout the inquest. The Coroner's ruling was based on the following;

1. That the hearing was **' in no sense a trial and whatever the procedures may be in the High Court or in the Crown Court these procedures do not apply in the court of Her Majesty's Coroner'.**

2. That in the case of Blair Peach **' the judgement of the Lord Chief Justice fortifies the opinion that I have already expressed in this case; that in so far as any documents are concerned they are, in fact, the property of the police and they are not within my disposition as such. What the Chief Constable makes of these documents, they are at his disposal; they are not at my disposal and they are still under his jurisdiction'**

3. That in **'Jarvis on Coroners', ' the authority which is normally adopted by coroners .... it appears to be very clearly stated:**

> **' there is no provision requiring the supply of copies of documents which are reports of preliminary enquiries or reports made to the police which are not put in evidence at the inquest. These are not to be disclosed"**

4. The Rule 28(1) of the Coroner's Rules;

> **' Documentary evidence as to how the deceased came by his death shall not be admissable at an inquest unless the Coroner is satisfied that there is good and sufficient reason that the maker of the document should not attend the inquest. If such documentary evidence is admitted at an inquest the inquest shall be adjourned to enable the maker of the document to give oral evidence if the Coroner or any properly interested person so desires'.**

The significance of this ruling in terms of the inquest was to inhibit severely the cross-examination of police witnesses whilst allowing the testing of the reliability of the evidence of civilian witnesses against their previous statements to the police. Its significance beyond the inquest was that the reports of investigating officers which included statements by the arresting and detaining officers were never heard in public. It was this ruling which provided the most serious inhibition on a full, fair and public hearing of the case.

There were other aspects of the court's procedure which hindered investigation in these cases. The Coroner uses extensive discretion in the calling of witnesses, ruling on court procedure, conducting cross-examination and directing the jury. The usual rules which govern jury selection and the right to challenge do not obtain in the Coroner's court, although the Home Secretary recently announced that juries are now to be selected in the same way as in other courts. The scope given to counsel in questioning witnesses, leading questions, bullying cross-examination and the admission of hearsay evidence are also unique to the Coroner's court. All of these secondary, but no less important, factors represented further barriers to a fair hearing. They were indicative of an adversarial investigation conducted in the clothing of an inquisitorial process. Nowhere is the adversarial nature of the hearing better evident than in the persistent legal disputes over privilege. Yet, with the statutory restrictions on liability, the weight of the investigations could not be carried by the inquest. The Coroner's inquest is not intended to be , nor should it be regarded as, a full public hearing.

'reforms'

Thus it is our conclusion that the proposed 'reforms' of the coroner's inquest will not alter significantly the inadequacy of the court in acheiving a thorough investigation, adversarial in process with liability as a focal concern.

Anthony Morris, the York Coroner, has written that;

> **'... the Coroner's jury is entirely circumscribed by the discretionary powers of the Coroner. If it is thought that a Coroner's jury has some kind of power to conduct a people's enquiry independent of the coroner, then that thought is wrong'.**

Changing the organisation of jury selection and the circumstances for which a jury is called represent no challenge to those discretionary powers. All deaths in both prison and police custody should by investigated fully by an independent enquiry held before a judge. It is only with the application of the usual adversarial procedure of courts that such deaths can be investigated thoroughly. Such changes alone will not resolve the issues of deaths in custody, for as Geary argues, major reforms in medical treatment (such as the abolition of the Prison Medical Service) outside treatment and reduced prison population are crucial. However, our conclusion on Coroner's procedure is that any death which occurs in any form of custody or in circumstances where dereliction of duty is alleged, requires its own court process.

Phil Scraton
Melissa Benn

(The authors work for the Open University. Their research into the role of Coroners Courts in investigating deaths in custody is soon to be published by the Cobden Trust)

MOZAMBIQUE: JUSTI

MOZAMBIQUE HAS BEEN independent for five years, but the experience of its leaders in organisingtheir people in a radically new way covers a much longer period. For ten years FRELIMO, the liberation movement of Mozambique administered liberated areas which covered the greater part of the countryside in three large provinces. FRELIMO confronted and resloved many of the problems which can block the path to revolutionary change. When the Portugese finally moved out, FRELIMO had policies and institutions which could be applied to the whole country. So with every major area of activity in Mozambique, in order to understand today's institutions, and how and why they work, you must study what was done by FRELIMO in the liberated areas during the armed struggle. The system of criminal justice is no exception.

In early 1974, before the coup which brought fascism to an end in Portugal, the necessity of creating new laws and new institutions was being firmly declared:
'We cannot found a people's State with its laws and administrative machinery on the basis of a State whose laws and administrative machinery were wholly designed to serve the exploiters. We cannot serve the masses by governing with State powers designed to oppress the masses.' (From 'Establish People's power to serve the masses' by Samora Machel)

Naturally in the liberated areas the colonial laws and administration were already no more. Feudal and customary laws retained their influence and were opposed by FRELIMO through a constant process of discussion and explanation: since they too were sources of exploitation, by chiefs over subjects, by men over women. In eliminating the old exploitative laws and practises, FRELIMO began to implant new principles and new institutions.

re-education

In the sphere of criminal justice the basic principle was that of re-education. The way in which the militants and cadres of FRELIMO dealt with those who robbed or beat or in any way oppressed their fellow human beings, was again a process of discussion; explaining in meetings of the whole community, to the people and to the offenders why their conduct was wrong; discovering and understanding the causes of their actions; and then requiring them to do productive work for and with the people, under enough surveillance for the people to assess whether their attitudes had changed.

In varying ways this concept of re-education and re-integration was applied to all but the most serious crimes by PIDE agents. For these there was, during the time of the war, the possibility of execution, under the authority of the provincial or central leadership.

The achievment of independence presented vast problems, in the system of justice as everywhere else. The old judicial system had ceased to function, with most of its personnel gone back to Portugal. But the new State had to resolve all kinds of immediate judicial and penal problems. Great numbers of collaborators with colonialism were being denouncedby the people. The towns were rife with the social diseases of colonialism - drunkenness, drug addiction, beggary, prostitution, street crime.

The theory and practice of the liberation struggle filled the void. The dynamizing groups of FRELIMO militants, who moved into every area to control this critical transition, continued to apply the principles of public discussion and re-education. Violent popular revenge was completely prevented. Those who had collaborated with the Portugese were treated in different ways according to culpability. Many were allowed to stay in their own neighbourhood, stripped of all privileges, to rehabilitate themselves under the watchful eye of the their community. Five years on, a few of these are now being permitted to take posts of responsibility.

Others, including the most culpable of the PIDE agents, were sent to re-education centres in Niassa province, in the far north of Mozambique. Some are still there, clearing and cultivating the land, but still prisoners under close surveillance. Others are now free, and in particular those who were sent to the former re-education centre at Unango.

Unango represents a remarkable example of Mozambique's imaginative penal policy. It is located at the foot of a mountain, overlooking a vast uncultivated plain, in the under populated province of Niassa. In the war it was a Portugese aldeamento (strategic hamlet). After independence it became a major re-education centre with nearly 600 're-educados'. They comprised a variety of social misfits sent by the dynamising groups: tramps, thieves, addicts, drunks, as well as collaborators.

In October 1979 President Machel visited Niassa, which had been designated a province of intensive development and expansion. Coming to Unango, he announced to a meeting of all the 're-educados' that they were being liberated. They were asked if they would stay on in Unango. Their families would be flown up to join them. Together with local people and teams from other provinces, they would start to build the new communal city of Unango, to be sited in the plain below.

The response was totally enthusiastic. In August 1980, when I visited Unango, the families were beginning to arrive. The strict re-education regime had given way to democratic decision making and co-operative forms of production. In the space of a few years, people who had been downtrodden and corrupted by the old system, had a marvellous future to work for.

local justice

In 1978 a law setting up a network of people's tribunals was passed by the National People's Assembly. There was to be a structure of tribunals at the level of the locality (a village or group of villages, or an urban neighbourhood) the district and the province, with a Supreme People's Tribunal as the highest court. The majority of judges in

CE AFTER THE REVOLUTION

every tribunal would be elected lay people- those known to have the qualities which would make their decisions respected. The higher level tribunals would have legally qualified Presidents.

Teams of third and fourth year law students were formed into 'Justice Brigades' to lay the foundations of the new system. In his speech at the end of their training course, the Minister of Justice described to them the revolutionary judicial officer:

'Our judicial officer, whether judge or prosecutor, must participate actively in the life and problems of the people, in order to be able to face the these problems and resolve them correctly. To the bourgeois tradition of an elitist judiciary which wanted to be isolated from the social context (although in practice it was not) in order to secure an illusory independendence, we counterpose the judicial officer who must be thoroughly engaged in the dynamics of the social and political process. Our judicial officer must be alive to the concerns of the masses. Therefore, in order to be able to decide questions in the name of the people, that judicial officer starts by being of the people.'

It is in this spirit that judges in all parts of Mozambique are now making decisions. In Nampula province, for example, there were in mid-1980 already 67 Tribunals with about 400 judges. About 150 are women. Only 5 have legal qualification. In May 1980 they had to submit to re-election: about 20 judges were rejected by the people as being unfitted for the office

The quality of the justice is enhanced by popular participation in the trials. The local tribunals attract a big audience. The public can ask questions and give their opinion, before the judges debate and decide. At the higher levels where the court building may be distant from the place where the people concerned live, the tribunal will in importantant cases go and hold the trial in the area where the crime occurred - I was told of two striking examples. The Maputo Provincial Tribunal went to a remote village to judge a respected elder who had attempted to burn a supposed witch. A major education job was needed as most of the people thought the elder was right. The Nampula Provincial Tribunal sat in a secondary school to judge a teacher who had offered exam passes to girl students in exchange for sexual favours. 'We had to show' said the Nampula judge 'that the teacher who bribes a pupil like that is not creating the 'new person', but is oppressing the child.'

penalties and prison

As to penalties, the local tribunals are limited to non-custodial sentences: public criticism, doing work for the community, small fines and compensation. In a case involving drunkenness the tribunal can ban the offender from buying alcohol for a period. The higher courts can and do impose prison terms, sometimes very long. In 1980 in Maputo a stream of cases arising from the 'ofensiva' (the national campaign against corruption and official malpractice) was being judged. I saw a senior personnel officer, who had been taking home 16 salaries of former employees who had left the state company, being sentenced to ten years.

Superficially this was a familiar enough court scene. What was different was the purpose for which the sentencing power was excercised - the ofensiva is a crucial campaign to liberate the working people from continuing forms of corruption by the educated class - and also the nature of the imprisonment to which the accused man was being sentenced.

The importance of making radical changes in the prison system was realised early on and at the highest level. In June 1976, President Samora Machel visited a number of prisons and talked at length to the prisoners. He condemned the methods of confinement which turned prisons into a 'dumping ground' and a factory for the production of criminals'. In a way which is characteristic of FRELIMO, he posed the most basic of questions in a speech to prisoners and staff:

'Each one of us, at the level of those responsible for the prison, must define what it is that a prison is, the objective of prison; what it is that we are trying to achieve when someone is locked up.'

A contemporary newspaper report summarised the conclusions of the President's visit in words which prison departments everywhere would do well to reflect on:

'In their visit to the prisons, the President and the officials responsible for the prison service tried to find ways of patching up the deficiencies, but there was no way of reforming a vicious system. More frequent visits by members of the family do not suffice. Permission to have more books does not in itself solve anything. The increase in the budget has enabled the prisoners to get a diet that is a little better but does not solve the problem of re-education, of rehabilitating criminals who must leave the jails as exemplary citizens at some future date. Productive work and collective study would seem to be, in the light of the experience of FRELIMO during the liberation struggle, the only ways of transforming a criminal into a 'new man' capable of being useful in Mozambican society.'

In Mozambique such conclusions do not remain as mere good intentions. They set in motion a process of consultation and planning at every level and in every province. For the serious adult offenders, the basis of the new system was the 'prisoners centre', a form of open prison which by 1980 had been established in nearly every province.

prisoners centre

I visited the Nampula prisoners' centre, in northern Mozambique, in August 1980. It was an abandoned colonial farm, a few miles away from the provincial capital, taken over by the state and then established as a prisoners' centre in January 1979. At the time of my visit it contained 178 of the province's longer term prisoners. Of the rest, 120 were in another similar centre and 160 in the closed prison. Shorter term prisoners, with sentences of a few months, stay in their local districts doing work for the community by day, and in police custody at night. The prisoners at the centre had been convicted of a variety of crimes - homicide, assaults, robbery, fraud, rape, etc. The same mix as in a British long stay prison.

But only two State employees, the Director and the Assistant Director, work in the Nampula centre. All the day to day administration of the centre is carried on by a committee of prisoners, each with a 'responsavel' or secretary responsible for the committee's work. Every Saturday a general meeting of all the prisoners discusses questions of concern and complaint.

Among the responsibilities assigned to the committees are:
- cultivation; the centre's 730 hectares produce rice, cashew nuts (sold to the state processing company), and enough fruit and vegetables to keep the centre self-sufficient throughout out the year. Another committee organises the rearing of animals - pigs, goats, rabbits and poultry.
- education; from basic classes in literacy and Portugese, up to general education of various grades. There are eight teachers, all prisoners with some education, including the former school teachers. Classes are on four days a week, for two and a half hours. A daily blackboard 'newspaper' keeps prisoners aware of current affairs. Everyone in the prison was involved, as teacher or learner, in the education programme.
- security; There are no fences. When you drive in, a prisoner opens up a makeshift single-pole barrier. In the early days of the centre there were several escapes, but now no more. Life in the centre is plainly more satisfying than living on the run or, when caught, in the closed prison. The security committee organises patrols at night - to keep order and stop outsiders breaking in, as much as to stop inmates breaking out.

- social welfare; wives and children of prisoners come to stay for periods of a week every three months, in a part of the

prison area containing separate family huts. This in addition to twice weekly visiting rights. The 'responsavel' for social welfare said that problems had become far less acute since these conjugal visits started.

Other committees deal with building work, mechanical repairs, sport, cultural affairs, food supplies and cooking -using available skills where possible. The accounts are kept by a former government servant who embezzled State funds. The 'responsavel' for basic health has been trained, during his sentence. at the residential course for village health officers.

Local people have become positively involved; from being at first apprehensive and ready to blame the prisoners for any local crime, they now organise work parties to help harvest thecentre'scashew crop. Prisoners go out into the local community to sell produce, play footbal matches or put on cultural shows.

It is not surprising that as a visitor, I felt aware of a strong community spirit, a sense of pride and purpose; and that the new regime is alreday beginning to show positive results. The tribunal has a power to supervise the sentences and to free prisoners who are thought to have been rehabilitated. The power can be used much more confidently when prisoners at the centre have been carrying heavy responsibilities. So far, no-one released from the Nampula has committed another crime.

The next step is to tackle the problem of closed prisons. These house those prisoners who are considered dangerous, or likely to escape as well as being the initial assessmentprison for prisoners after conviction. In order to prevent these prisons from being isolated from the re-education process, the proposal in Nampula is to locate the closed prison inside the prison centre. The new system would then influence the old, and the need for co::finement gradually be diminished.

The re-education centres still continue but with changes. The responsibility is not now left to the dynamising groups: only the tribunals with their greater safeguards against mistakes which were made can send people for re-education. They do so for periods of up to three years, where the problem is not a specific crime but a way of life, such as drunkenness or begging.

final question

What, then, is the difference between a prison and a re-education centre? As the prisons are progressively transformed, the differences decrease. Collective work, the taking of responsibility, education, co-operation with local people - these are the means to be used throughout the system. The ideals are the same, and are as revolutionary, as they were at the start of the struggle.

A final question - from a FRELIMO circular on crime written in 1976- sets Mozambique's policies on criminal justice in their broad political context and demonstrates also why our own society could not adopt these policies without totally transforming itself:

'Crime has its origin in oppression, exploitation and the humiliation of man by man. Where there isexploitationwhere there are societies divided into classes, there is misery and hunger, and there is crime. Only through a struggle for the creation of a society without exploiters and exploited, where all try to satisfy their individual needs through co-operation with others, through collective, organised work, will it be possible to wipe out crime definitively.'

TONY GIFFORD.

(Tony Gifford, a sponsor of RAP was Chairperson of the Committe for Freedom in Mozambique, Angola and Guinea during the armed struggle against Portugese colonialism. He recently travelled widely in Mozambique as the guest of the Mozambique Government.)

EDITORIAL

It's not often that we have good news to report on financial matters. It is therefore with great pleasure that we can announce the decision of the Barrow & Geraldine S. Cadbury Trust to allocate RAP a grant of £5,000 for 1981. This is the best news RAP has had had for many a year. It means that, for the first time since Christian Action stopped financing RAP in 1978, we have substantial support froma single Trust. And it means that we can now plan ahead confidently without having to worry about finding the next penny or pound. It is no exaggeration to say that without the support of the Cadbury Trust, certainly The Abolitionist and probably RAP itself would have ceased to exist.

Over the next year we have four main priorities. In the first place, we have already set up Working Groups to undertake research into three areas of prisons and penal policy.: Medical Treatment in Prison, Sexual Deviancy and Penal Policy, the Prison Building Programme and its implications. Much work has already been done on medical treatment in prison and we hope to publish a major pamphlet on this subject (the laws of libel willing) before June. The other two subjects are relatively new ground for RAP. In the case of the Prison Building Programme, we hope that the research done by the Working Group will provide ammunition for a more public campaign about the waste and stupidity of further prison construction.

Second, we aim to increase our Speaking engagments. Along with PROP, CRAG and Release we are reviving the idea of a Speakers Co-operative and will be distributing a leaflet to political parties, Trade Unions, schools and colleges.

Third, we intend to increase RAP's impact via the media. This is always a difficult line to tread. Within the Policy Group, there are those who feel that the media will always distort and trivialise what we have to say and that if we want to appear "realistic" and "acceptable" to the press, we will have to moderate our message. They therefore feel that it is pointless to pour a lot of time and resources into what often ends up as very small coverage anyway. On the other hand there are those who feel that it is impossible and indeed irresponsible to ignore the media altogether. The problem for RAP, with our limited resources, is to strike a balance between press coverage and other forms of campaign work.

Fourth, we want to boost our membership figure. At present, the number of paid up members hovers between 250 and 300. We therefore urge lapsed members to renew their subs and to conscript friends to join. A £5 sub *can* really make a difference - it can pay for 50 second class stamps, or 400 sheets of headed notepaper or 150 photocopies or a weeks rent, quite apart from helping to pay for the cost of producing The Abolitionist.

LETTERS

barlinnie

Dear Friends,

You ask about recent developments at the Special Unit.

I can as usual only convey a few personal impressions, following an attempted visit about two months ago. For the last 3 years or so, I had never had the slightest difficulty in visiting Jimmy Boyle at the Unit, nor had I ever been questioned at Main Reception, nor ever searched. More than this, all the Unit's staff, without exception, had treated me more as a trusted friend than a casual visitor and I have not betrayed their trust. It was therefore very strange, having confirmed my time of arrival through the 'usual channels' to experience the shock of being abruptly informed that I was not to be allowed into the Unit. Specifically, I had applied to visit a prisoner whom I will not now name, Jimmy having already been transferred to Saughton.

Jimmy would be the first person, I am sure, to encourage friends of the Unit to keep on going there and to maintain contacts with inmates and staff (very often indistinguishable). The reason given for the refusal was that 'the vote (at the weekly open meeting) had gone against me' but I have reason to think that this explanation was false.

One old friend on the staff has stopped answering my inquiries. I have the feeling that all correspondence is once again being censored. So it looks like regression not development, since the departure of Ken Murray and Jimmy Boyle. Just what we all feared, in fact. And the danger is that more in sorrow than anger, the Scottish Office will be "forced" to "phase out" (re-modify?) the extraordinary experiment in humanity inside Barlinnie, known as the Special Unit. Another state crime that will go unpublished; almost unnoticed, it hopes!

But I don't believe that a single moment of the existence of the Special Unit has been in vain. Mangakis has taught me that a sense of humanity can never be imposed - I'm referring to the jailers not the jailed. Yet Capital Punishment was abolished, in the teeth of the democratic vote!

There's hope there, providing we don't give up.

There is still time for the Scottish authorities to redeem their betrayal of the brave experiment - sponsored by themselves.

In pleading the cause of the Special Unit, are we playing a double game, by seeming to recommend the idea of imprisonment - so long as it isn't too severe? I think there is a danger here of a ghastly parody of the Unit reproducing itself in every prison in the country. The Special Unit came into being by reason of sheer coincidence combined with several flukes, in addition to the meeting (itself a fluke) of two men of exceptional character and potential, one a condemned murderer, the other a 'hard' prison officer, trained in traditional methods. The result seemed a miracle, and in the conditions it took place, no doubt it was. It was won at the cost of untold patience courage and faith in the potential of the human spirit. To modify the present set-up in the Unit in any way (not to mention closing it) would be a betrayal of that spirit.

Yours,

David Markham.

resistance to reconviction?

AS A MEMBER of RAP's Policy Committee, but not solely for that reason, I feel obliged to comment on Alan Leader's impassioned call, in the last *Abolitionist,* for greater commitment to the cause (of abolition?) under the heading *From Support to Resistance.* In the past Alan has been both a RAP Policy Committee member and a NAP worker, so I'm very much aware of the high level of his commitments in the field. So no quarrel with that, and I know he continues to work hard editing *Breakout,* the prisoners' magazine, and in connection with various other projects.

Following the preamble to his *Abolitionist* piece he distinguishes into two separate phases various activities. On the one hand there are those which 'support' prisoners and on the other those that amount to 'resistance'. The Phase 1 'support' projects include a Prisoners' Book Scheme, the setting up of support groups in the localities where there are prison establishments, and *Breakout;* all of these are very worthwhile and have been quite widely publicised elsewhere.

But what of Phase 2, which requires the establishment of 'resistance networks'? Is it really good policy to advocate in print the setting up of safe houses for escapees and bail absconders and to detail the various security measures which might be employed to protect such places? And is it RAP policy to rob people to use their personal documents for the purposes of false identification? I would have thought the working class was oppressed enough without visits from the police enquiring about criminal offences committed in the loser's name, and all the other unpleasant consequences

that might follow. It is hard to envisage that those operating resistance networks would be so purist as to steal documents only from the middle and upper classes, and besides, even Alan might have difficulty masquerading as Lord Longford! Or alternatively is it to be RAP policy to acquire a stock of false passports as per the example of John Stonehouse?

If a bank robber signed and chose to have published articles about how to go about robbing banks, I should think s/he would be less likely to able to prove his or her innocence if subsequently accused, rightly or wrongly, of bank robbery. My understanding, looking back over a decade or so at various criminal trials that tended to involve the sort of resistance networks with which Alan is so anxious to identify himself, is that the police have very often used magazine articles and similar documentary material to get convictions – to much wailing and moaning on the part of the accused. And I would have thought that RAP, but more particularly Alan, may well be setting themselves up as sitting ducks. The other side can play dirty as well. It's a fool's game Alan, and you as well as anyone should know that. Some 'leader'!

Ian Cameron.

young offenders: the justice model and the white paper

In all its publications on young offenders, from *Children Out of of Trouble* (1974) to *Is this 'A Future for Intermediate Treatment* (1977), RAP, while sceptical about 'treatment', firmly rejected the notion of punishment. It sought 'to direct the public away from its punitive obsession' and 'to educate the public in a more general and obviously *political* way' (1977, p. 1). A very different approach is fashionable at present. Everyone from Laurie Taylor to the zealots of the Tory conference seems to be calling for a return to hones-to-goodness, old-fashioned punishment, with mealy-mouthed do-gooders kept firmly in their places. Not that RAP has any brief for mealy-mouthed do-gooders.

The new orthodoxy emerges clearly in the House of Commons Expenditure Committee's Resport (1975) on the Children and Young Persons Act 1969. Ironically the subcommittee which produced the Report was possibly the only official body on which RAP ever visibly succeeded in making an impression: three Young Offenders Group members were questioned at some length, and their evidence is referred to several times in the Report. The Committee noted RAP's arguments for 'a greater degree of tolerance' , but insisted that tolerance had its limits: there existed a 'hard core' (para. 17)—a term to which RAP had strenuously objected—who needed 'strict control and an element of punishment' (para. 137). It acknowledged that

> The Act itself or indeed any legislation that might conceivably be passed by Parliament has had and can have no significant effect on the general level of delinquency and general juvenile misbehaviour. (Para. 167.)

but suggested that the objectives legislation could achieve were:

> satisfying society's wish to punish an offender and preventing him for a time from committing further offences at a reasonable cost and in the most humane way'. (Para. 13).

The forms of control and punishment prescribed for the hard core by the Expenditure are almost identical to those proposed by the present government in its October 1980 White Paper: detention and attendance centres for the under-17's should be retained (contrary to the intention of s.7 (3) of the 1969 Act, which the Government now intends to repeal), and a 'residential care order' introduced. But for the softer majority the Committee favoured non-custodial and non-residential measures.

Morris and McIsaac in their book *Juvenile Justice?* (1978) quote the two passages given above with approval, and comment:

> The . . . subcommittee's trilogy of economy, humanity and punishment seems to us to offer a new direction and a reasonable starting-point for future debates. (p. 176.)

A few pages earlier we find the first statement of what has become a key element in the philosophy of Justice for Children, a recently-formed pressure-group of which Ms Morris is a prominent member:

> We see the role of the [proposed] special juvenile tribunal as protecting society, protecting the offender from undue intervention and reasserting society's values. Punishment is society's and the child's right. (p. 156.) [For Justice for Children's version see Morris and Giller (1979)]

Similar ideas are current among lawyers and academics in the USA: see Rosenheim (ed.) (1976). The Juvenile Justice Standards Project, a collaboration between the American Bar Association and the Institute of Judicial Administration, is especially noteworthy because its recommendations have been adopted in the English context by Taylor, Lacey and Bracken (1979). They advocate that all dispositions should be of determinate length, 'proportional to the seriousness of the offence' and the 'least restrictive that is 'appropriate'. They also stress the importance of legal representation for children and parents in court hearings (Taylor, Lacey & Bracken, p. 85ff.).

white paper

Although it makes no attempt to articulate any coherent philosophy—the one consistent element running through its proposals is that they all involve augmenting the powers of the courts—the recent White Paper incorporates both the Expenditure Committee's recommendations and notions of determinate, tariff sentencing. The Expenditure Committee's recommendations for dealing with the 'hard core' are reiterated and so is its advocacy of non-custodial alternatives. The essence of the Government's approach to alternatives is to toughen them up under the pretext of making them more attractive to sentencers. A new 'inter-

mediate treatment order' will enable the court to specify (with the consent of the offender and his or her supervisor) the activities that an offender is to undertake on 'supervision in the community' (scope for making the punishment fit the crime?); and the age threshold for the still more formal Community Service Order will be lowered from 17 to 16. More attendance centres will be provided, and the power to make parents liable for their children's fines is to be 'clarified and strengthened'—action loudly acclaimed at the party conference as a move to 'punish the parents as well as the children'.

'The government agrees with those who hold the view that, except in the exceptional circumstnces of the life sentence . . . all sentences should be determinate so that the courts can mark the seriousness of the offence by the length of the sentence they impose.' (para. 10.) The indeterminate borstal sentence is to be abolished and for 15–21 year-olds all custodial sentences of four moths or more* will take the form of fixed terms (subject to one-third remission) of 'youth custody'. Borstals, and some young prisoner centres, will be renamed 'training establishments' and young offenders serving 'medium term' sentences (provisionally defined as 18 months or less) will be 'guaranteed' places in them, with all the delights of a regime 'modelled on the best of the borstal system'. For young adults (17–21) the maximum term of youth custody will be the same as the maximum prison sentence for the same offence; for 15- and 16-year-olds the maximum will be 12 months. The minimum detention centre sentence will be reduced to 3 weeks (less remission) and the maximum to 4 months. Whether the shorter sentences will also be sharper and more shocking, as at Send and New Hall, has yet to be decided.

The fairly obvious strategy behind these proposals is one of 'acceleration': some of the less serious offenders will go through the system faster, making possible an increased turnover. It seems unlikely, however, that this will do much to ease the ever-increasing pressure of young offenders on the prison system: see Baldock (1980).

But the Government finds no difficulty in reconciling this with the almost meaningless principle of the 'least restrictive available disposal': the provision (Powers of Criminal Courts Act 1973 s. 21) that an offender under 21 should not be sent to prison unless the court is 'of the opinion that no other method of dealing with him is appropriate' is to be extended to cover youth custody and detention in a detention centre, and a similar provision will apply to the residential care order, as will the requirement that legal representation be offered before any custodial sentence is passed on an offender for the first time. The 'justice' lobby will be able to point to the glaring anomaly that neither safeguard is to extend to the ordinary care order, which can lead to a far longer spell in an institution.

What the Governmentunfortunately has not accepted—and to do so would seriously undermine its rhetoric—is that the institutions of punishment should acknowledge their limitations and redefine their objectives accordingly. Young offenders, we are told, are at a 'crucial period of their life' and need borstal-type 'training' to help them 'find their identity' (as 'responsible citizens', that is) and 'cope with the normal demands of modern society without reverting to crime'. Presumably they will practise standing patiently in the endless queues immortalised by Saatchi & Saatchi. A skill like that takes at least four months to acquire, so detention centres must be content with 'relatively limited objectives'. Yet to judge by the speech in which the 'experiment' at Send and New Hall was announced, Mr Whitelaw still labours under the Victorian delusion that relentless discipline and unproductive exertion can both deter and instil 'self respect and respect for authority'.

The most controversial feature of the White Paper is the residential care order, which will enable the courts to order that a child already in care for an offence who has committed a further, imprisonable offence be removed from home (where to is up to the local authority) for a fixed period not exceeding six moths. (The appearance of determinacy is illusory: the local authority can continue to detain him under the original care order if it sees fit.) It has been estimated that up to 900 more children a year will be removed from home as a result. That anyone acquainted with the relevant research (see Taylor, Lacey & Bracken, 1979: pp. 21f., 30f., 49ff.)could expect this to do more good than harm to the children is almost inconceivable. But in this case the White Paper gives the Government's motives away—and again the language is that of punishment rather than care. There is 'public concern that the juvenile courts do not have—and *are not seen to have*—adequate powers to deal effectively with the young offenders who come before them.' Therefore 'the Government thinks it necessary . . . to give the courts a statutory power to require the juvenile's removal from home so that this will be *seen both by the public and by the offender himself to be a direct result of the commission of the offence and of the court appearance.*' (Paras. 42–3; italics mine) The child, in short, is to be sacrificed to placate that vengeful deity, Public Opinion, and its power-hungry priesthood, the Magistrates' Association.

agreed ideology

It would be unfair to maintain that the more reactionary elements of Government policy are a legitimate extension of the liberal version of retributivism. But Justice for Children do risk giving that impression when they quite deliberately seek out common ground with the most reactionary groups in the penal lobby. In their paper *What Justice for Children?* Morris and Giller argue that the juvenile courts lack an 'agreed ideology or philosophy' and that the notion of punishment can fill the gap because 'it is already part and parcel of the working philosophies of at least saom of the key groups'. They are at pains to stress that 'Such an approach is not confirmation of the need for "glasshouses" and the like which are the current demands of the "law and order" lobby.' But the backbone of the 'law and order' lobby is provided by those same 'key groups' whose philosophies Morris and Giller appeal to: the police, the magistrates and the justices' clerks: groups whose influence on the White Paper is all too evident. Such ambivalence makes a poor basis for firm opposition.

*Except detention under s.56 of the Children and Young persons Act 1933, which provides that juvenile found guilty of an offence punishable in the case of an adult by 14 years' imprisonment or more can be detained for a period not exceeding the maximum sentence for an adult in a place specified by the Home Secretary. For some reason the euphemism 'during Her Majesty's pleasure' is substituted for 'life' in the case of murder, but not, eg., setting fire to curtains.

20
a way out

This is not the place for a philosophical critique of retributivism, since the points to be made would largely apply to the 'justice model' in general (though it may be noted in passing that to claim a right to punishment on behalf of children, who enjoy so few other rights, is even less realistic than to claim it for a socially disadvantaged adult). Instead, I want to suggest that a fundamental flaw in much that has been written lately about 'juvenile justice' lies in the simplistic distinction between the interests of the child on the one hand and 'society' on the other. The issues seem to me to become a little clearer if we make a further distinction—still crude, I admit—between the interests of the *state* (by which I mean primarily the institutions of coercion) and of the *community* (which, at a sad minimum, means no more than the inhabitants of a particular neighbourhood).

We can now set aside philosophical speculation, and acknowledge quite simply that when children come into conflict with the state, it is in the state's interest that at least some of them receive some kind of sanction—for the simple reason, among others, that a legal order loses in effectiveness and 'repute' if its provisions are seen to be violated with impunity. This interest obviously conflicts with the interests of the child, and in this unequal contest it is important that the child at least receive the protection of some basic civil liberties. It may also save much harm to the child, and much expense to the state, if a way can be devised for the child to be let off without the state's losing face; so exclusionary and (with some reservations) diversionary measures are to be encouraged. In this way we can salvage many of the practical proposals of Justice for Children and Taylor, Lacey & Bracken, but jettison the ideology.

But the interests of the state by no means coincide with those of the community—especially if that community is working class. Undoubtedly the more serious forms of delinquency, like the notorious 'muggings' are a real, if often exaggerated, menace. But the state's response, whether punitive or therapeutic, has proved ineffective at best; and if administered in doses which might produce some temporary effect—a massive injection of SPG, for example— the medicine might well be thought worse than the disease.

Children, on the other hand, are part of the community; and serious delinquent activity seems to a large extent to be a response to social deprivation, of which whole communities are the victims. Thus although working-class young people may behave in a way that is seriously detrimental to other members of their communities—and so drive them into the long arms of the law-and-order brigade—their interests are essentially at one; and it is this underlying harmony that has formed the basis of RAP's approach.

There are three main strands to that approach, as articulated in *Children Out of Trouble:* (A.) The institutions of punishement, and the attitudes that support them, are an obstacle to social change and should be dismantled or undermined as far as possible. (B.) It is vital to develop a sense of community in the full sense of the word, in which children as well as adults can share: 'Children can adapt to community life; they are able to see, within a [school] community created by themselves, the necessity for social responsibility.' (Under these conditions, the 'right to punishment' actually begins to make sense: as responsible partners in a miniature social contract, the children could agree to accept certain penalties.) (C.) Before there can be any hope of preventing delinquency, it is necessary to eliminate—in the short term, to ameliorate—major social injustice.

I can think of no better way to end than to reprint the summary of *Children Out of Trouble:*—

1. 'Juvenile delinquency is neither a disease nor evidence of moral deficiency. Law-breaking is a universal social phenomenon, but certain young people are scapegoats. From disadvantaged origins, they are targets for the police and fodder for the judicial process.

2. Prevention is better than cure, but positive prevention in the long term means a fundamental shift in the power structure which would amount to social revolution. Until there is support for such a revolution, a strategy of change must have limited objectives, attacking establishment attitdes and practices in the fields of education and social service.

3. Development of community feeling is essential to social reconstruction. Grassroots movements of self-help are the key to restoration of social health. Local government should be accountable to democratic consumer councils.

4. A national minimum income for every individual of any age would go a little way to mitigate the worst effects of our class structure.

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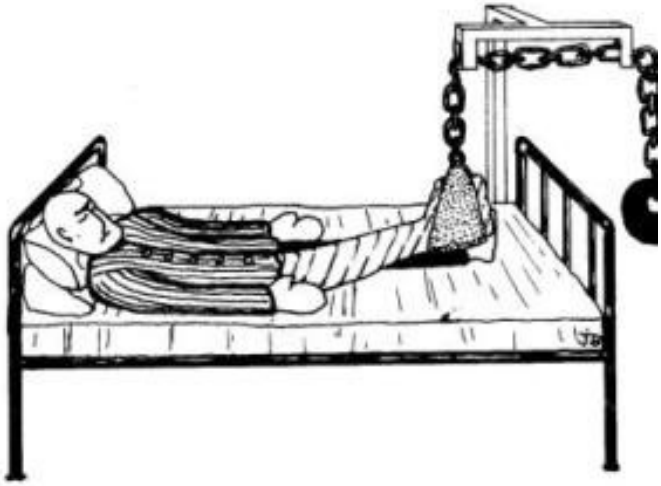
tony ward



RAP QUESTIONNAIRE RESULTS

By definition, pressure groups are minorities; they exist in order to argue for a point of view that would change some aspect of present social policy. As such any pressure group will find itself faced with the problem of how to concentrate its energies, to define its constituency and to appeal to that constituency.

As Mick Ryan argued in his book, "The Acceptable Pressure Group", RAP is the type of group in which this problem is particularly acute. For while it is relatively easy to point to the failure of the prison system, it is much harder to make an impact against the ethic of imprisonment, which continues to exert a great deal of psychological power in society.

To find out what sort of ideas RAP members had on the subject, last year we sent out a questionnaire which asked for opinions on the long and short term aims of RAP; what sort of campaigns would best serve these aims; and (which is by no means self evident) to what extent abolition is possible and desirable.

Questionnaires have a tradition of failure: in the last century, for instance, Marx tried to sound out the entire European working class , but never received enough replies to compile a report of his Enquete Ouvriere. We were a little less ambitious and the 27 replies we got (from a mailing list of 250) reflected enough diversity of thought to make it seem at least representative of the RAP membership as a whole.

In fact the difficulty of RAP's position was revealed in the nature of the replies themselves. There was general agreement that RAP's main value was a source of information and anti-prison propaganda based on analysis of the information. But there was also a certain vagueness on howto translate this idea into practice. However, a number of specific recommendations on areas of intervention taken together suggested that members feel RAP should be trying to immediately reach a wider audience than is normal in traditional pressure group politics.

Certainly there was some emphasis on getting RAP's arguments heard in the media and canvassing for support from MPs - about 15% thought this was RAP's most important function. But many contributors implied a shift from total concentration on these constituencies to 'lower-level' intervention: more attention should be paid to reaching the grass roots of (particularly) the Labour Party and the Trades Unions: speaking engagements at schools and colleges should be given more priority.

To combine these two levels in practice most replies argued that RAP should at any one time, given its limited resources, concentrate on a single issue campaign, such as neglect and abuse in prison medical facilities. This could then be used as a lever to point to the underlying reasons for existing shortcomings in the area chosen. The Abolitionist and working groups would provide the forum for a wider range of coverage of penal affairs.

This strategy was the most popular but it was by no means uncontested - or consistently stated in individual replies which appeared to imply it. The comments made on the prospects for abolition perhaps show the cause of such strategic difficulty. A majority either did not believe that total abolition of imprisonment would ever be possible or that it was possible to make a prediction. Yet the difference between abolition of the prison system and the retention of detainment for a very small number of people was felt to be so small that (it was argued) abolition was still a suitable objective for RAP. Obviously such a position involves considerable difficulties, especially in the fact that it is not an easy point to make.

More fundamentally, RAP has always begged the question: 'if you want to abolish prisons, what are the alternatives?' A strategy based largely on criticism of prison provides the bases for but does not define what kinds of alternative can be considered as authentic (as opposed to mere substitutions), or necessarily suggest how alternatives could be put into practice on a scale sufficient to replace imprisonment. Political questions of this order - the relation between ultimate aims and practicability - are both the most difficult to answer and the most obvious to ask.

Interestingly, our questionnaire *did not* explicitly ask for opinions on the problems surrounding alternatives - and not many correspondents risked any.

Chris Wallace

BOOKS

justice may v justice model

The starting point and centre of reference for this hybrid of analysis and polemic are the deliberations of the May Committee in 1979. Where its report might have been as influential as that of the 1895 Gladstone Committee, it emerged as ineffectual. The authors contend that May's failure was the result of a lack of nerve; in order to break new ground it would have had to go well beyond its terms of reference (in the same way that its illustrious predecessor had), and the Committee were at least to some extent aware of this. However, they allowed themselves to accept as axiomatic the executive-based, largely statistical evidence of the Home Office. This in turn implied a conservative conception of policy, since the statisitics assumed continuation of present trends, as if these were uncontrollable objective forces and not the consequence of particular political decisions.

For what it is worth, King and Morgan's criticism of the May Committee is devastating: the report appears to consider policy alternatives with a view to the possibility of innovation, whilst endorsing present policy as a matter of course: given its unquestioning acceptance of the Home Office evidence, nothing else could be expected. But it does not even have the virtue of a consistent statement, hovering as it does somewhere between a recognition of the need for legislative action and unwillingness to go beyond its stated terms of reference and executive suggestions.

In this context, the authors put forward their own recomn endations on what should be done. Briefly, their argument is that post-war penal policy has suffered from an unrealistically ambitious notion of what prisons are capable of: the philosophy of 'treatment and training' poses as a social programme in itself, whereby the prisoner, subject to (quasi-) clinical diagnosis, is classified and allotted a place in the system suited to his 'needs'. But instead of turning out model citizens, the policy has created only chaos and misery. As the Home Office came to recognise the impossibility of 'treatment and training' it gradually abandoned its programmatic elements, but continued its administrative prescriptions. The result has been ineffective and under-subscribed training prisons, and grotesquely overcrowded local prisons in which the length of prisoners' sentences have been notionally linked to the amount of time it might take to 'reform' them.

King and Morgan's solution is a closely argued promotion of the Justice Model: the rhetoric of reform should be scrapped, and sentence related to the nature of the offence, and not the presumed needs needs of the prisoner. The function of the prison would then become that of 'humane containment', with incarceration kept to a minimum compatible with public safety; and undifferentiated regimes in which the emphasis was on standards of living rather than inflated reformative ambitions. Along with humane containment goes a commitment to normalization of prison and minimum use of security in order to reduce the debilitating psychological effects of confinement in a human (but humane) warehouse.

The Justice Model certainly has the advantage of dispensing with the plain duplicity of 'treatment and training' ideology, and it does recognize that at the heart of penal policy are political questions. But it seems to me to involve a de-politicisation of the political through its insistence on the neutrality of its own position. On the one hand, exponents of the Justice Model are are motivated by a liberal or radical desire to abolish the extensive use of imprisonment; whilst on the other, they see this as simply a matter of more-or-less sophisticated adjustments in policy. Although they criticise the authorities for a seeming inability to carry through change, theyrefuse to go on and consider the nature of the political power which has led to the state of affairs they condemn. The Justice Model puts its money on credibility, and does not stray from the sphere of what is possible in the 'here and now'. It follows from this operational approach that wider political contexts remain stable, and areas of policy change only within the limits these permit.

contradiction

At this stage, a contradiction arises: it is unlikely that political authority and the sorts of policy of which it is capable are purely contingent with regard to each other. Even if the specific proposals of the Justice Model were taken on wholesale, what guarantee is there that a conservative bureaucracy would not just use them as replacements for existing jargon? The tendency would be exactly in this direction, and without a different form of political supervision, it is hard to see how it could be held in check. I think that advocates of this theory buy credibility at the price of their intentions.

Unfortunately, there is no space here to apply this argument in detail against King and Morgan's book. But if I am right, it is true even in the face of the most sophisticated and careful variants of the Justice Model. Divorced from broader perspectives any set of policy recommendations will have little profound effect on the prison system. King and Morgan rightly call for a prison-building moratorium, but provide no framework to ensure the political consistency with which this item must be implemented as part of their programme. After all, in view of recent history it is not impossible that a government would stop prison construction as *nothing more* than a financial expedient.

Chris Wallace.

The Future of the Prison System
Roy D. King and D
Roy D. King and Rod Morgan with J.P. Martin and J.E. Thomas

Gower £11.50

FRESH EIRE?

WHILE WE IN BRITAIN have had to be content with the managerial obsessions of the May Committee's Inquiry into the UK Prison System, the Irish penal system has recently undergone a more searching analysis of its role, purpose and achievments. The "Report of the Commission of Enquiry into the Irish Penal System" was published in November 1980 and attracted little attention in the British press. Like the May Committee, the Irish Commission was staffed by members of the political/legal/academic establishment plus one token Trade Unionist. Unlike May, which was appointed by the Labour Government and repeated almost verbatim the evidence submitted by the Home Office, the Irish Commission was formed in response to a request by the Prisoners' Rights Organisation for a thorough investigation of the penal system.

Though no PRO member sat on the Commission, this link precluded any chance of co-operation from the Irish Government and Civil Service. Despite two, very polite, requests from the Chairman of the Commission Sean Macbride (of Nobel and Lenin peace prize fame) the Irish Minister for Justice refused to either meet the Commission or allow it access to official information. This double snub almost certainly made sure that the final Report is as independent and radical as, in parts, it is.

no policy

The first three chapters of the report provide a historical summary of the development of the Irish penal system and an analysis of the system as it is today. Not surprisingly, the Commission conclude from their survey that prisons "have failed to provide for the rehabilitation of the prisoner and the reduction of recidivism" and observe that "there is still no discernible overall policy regarding the purpose of imprisonment". Their survey reveals some interesting facts. I did not know, for example, that while the male prison population has increased by 200% since 1960, the female prison population has declined drastically over the past 50 years from 1,029 in 1929 to 137 in 1978 and that the average daily population for women in 1978 was 24. Pointing to the absurdity of the Irish Government's plan to build a new women's prison with accomodation for 100, the Commission suggests " that at a time when the rest of Europe and America is acknowledging the failure of custodial treatment in its traditional form and when the search for alternatives is well on the way, what better area to experiment in than is this small section of the population."

In chapter four, titled "Alternatives to Prison and Rehabilitation of Prisoners" the Commission draws on evidence from the USA, Sweden, Canada and Britain to support its contention that even if prison conditions are radically improved, prison militates against the rehabilitation of the offender. They therefore urge the provision of alternatives to prison for as many people as possible since this "is the best for the offender, for society and for those who have been offended by the deviant activities of the convicted offender in most cases." Three pages of the Report are given over to the merits of Restitution Programmes, in particular those currently established in 7 American states which have recidivism rates of less than 7%. According to the Commission, "their success is measured not only in terms of the effect on the offender...but also on that presently forgotten person - the victim - who under our system of imprisonment may be said to be twice victimised, once by the crime and later by having to contribute in taxes to the support of the perpetrator in jail." A useful argument to have at hand when you next clash with a public expenditure obsessed, 'hang 'em and flog 'em' Tory.

co-opted

It is a pity then, that having constructed a fairly devastating indictment of the Irish prison system in the main body of the report, calling for the use of imprisonment only in cases where the safety of society requires it, the Commission fails to follow this up in its Conclusions with a broader attack on the society in which that system exists. Instead the Commission stridently ignore Thomas Mathiesen's advice about co-optation and avoiding the temptation to formulate short term reforms and immediate 'constructive' alternatives.

Perhaps fearing the scorn and ridicule of the Irish political establishment if they failed to present a detailed plan for penal reform, the Commission present over 60 recommendations which, they believe will radically alter the prison system and ensure the smooth rehabilitation of deviants. The result is disappointing. They call for the setting up of a "Treatment of Offenders Board" staffed by ten "experts" which would subdivide into a Security Division, a Rehabilitation division, a Preventative division and a Building, Maintenance, Catering and Administration division. In case this is not enough they also want a Council for the Rehabilitation of Offenders and the setting up of an Irish Institute of Criminology. Much of this sounds dangerously like professional self-aggrandisement.

Only in the section "Preventative Measures" does the Commission come near to questioning the social and economic status quo when it acknowledges the link between poverty, unemployment, poor education and crime. But their answer is that the Gardai (the Irish Police force) should have the assistance of social and welfare officers when serving in deprived urban areas and that they would like to see a determined campaign mounted against urban poverty. Well, wouldn't we all?

In conclusion, then, a confusion of aims runs throughout this report. While acknowledging that the vast majority of crime is directly linked to social, political and economic deprivation, the Commission spends a lot of time suggesting ways to rehabilitate prisoners back into society (admittedly through non-custodial means) without making the point that it is perhaps society that needs rehabilitating.

Tim Owen.

Report of the Commission of Enquiry into the Irish Penal System. November 1980 (ed: Micheal MacGreil. £2.75. 73 pages.

PRESS BIAS; MORE BAD NEWS

A selective study of national newspaper coverage in 1978 was published by NACRO last November. "Crime Punishment and the Press" was researched by Dr Marjorie Jones JP (author of "Justice and Journalism: A study of the influence of newspaper reporting upon the administration of justice by magistrates" (1974), a book length study of obvious relevance.)

The Home Office has to put a great deal more effort into public relations if the mass media are to more responsibly and objectively cover the wide range of issues that touch on crime and our criminal justice system. This is the message enshrined in the press release put out by NACRO with this publication. A recommendation supported in Marjorie Jones's text after she has outlined in some detail how the national daily newspapers (in June 1978) dismissed and even abused members of the Advisory Council on the Penal System (ACPS) whose report on "Sentences of Imprisonment: A review of Maximum Sentences" had been published after deliberations lasting three years.

In Marjorie Jones' view it was quite predicatble that the ACPS report - "A Charter for Rapists" according to the press - would be greeted with great hostility and the ACPS should have known this. But despite the arguments and evidence she musters to support her 'prediction' accusation, one isn't convinced that the vehement abuse which the press heaped upon this report was entirely predictable. No doubt more could have been done by the Home Office/ ACPS to plan and plot so as to attain for this report (as for others in the future) on publication a more sympathetic reception but how this news management operation ought to have been mounted, Marjorie Jones does not explain. In the text, the balance of criticism appears to be so against the Home Office/ACPS that the press might feel some justification for the appalling way it reported and commented on the ACPS report.

"Crime, Punishment and the Press" was commisioned because a number of specific criticisms of media treatment of crime and the criminal justice system were voiced at the Thirteenth Conference of Criminological Research, called by the Council of Europe at Strasbourg in November 1978.

NACRO decided to investigate whether the media did spread irrational fears about crime and the criminal justice system, whether crime news was very popular and tended to concentrate on crimes of violence, and whether, for most people, the press filled in where personal experience of certain crimes was absent (especially in the case of murder and rape.). Because if this was so then clearly NACRO's work was greatly affected by media coverage. And especially so when selective, sensational and irrational coverage all tended to feed a "syndrome of punitiveness towards offenders."

Certainly this NACRO study, even limited though it is to three instances of 1978 media coverage - the ACPS report, the coverage concerning the two Nottingham boys aged 4 and 6 who were alleged to have battered to death an 84 year old "granny" using house bricks and thirdly a special four day 'Suu' series on 'Violent Britain ' - confirms that the media probably do tend to undermine in the very ways mentioned at the Strasbourg conference, the progressive work of NACRO and others similarly disposed.

In any one year the amount of media coverage touching upon all the various issues that have to do with crime, punishment and the criminal justice system is of course immense. Yet it must have been comparitively easy for Marjorie Jones to single out the three instances she has used to illustrate the limited range of problems voiced at Strasbourg. Her book is not an unreasonable contribution to the discussion of these problems but one cannot help feeling that it doesn't take things very far and strikes one as a trifle bland in the face of the daily onslaught of propaganda from the police and the courts.

contempt

In the two years that have passed since the Strasbourg conference things have deteriorated further with the press and the police sometimes in close collaboration, acting against the laws both of criminal contempt and libel. There is certainly nothing unreasonable in Marjorie Jones' recommending that the Home Office, the judiciary and academics at the universities get together, so that along with newspaper editors and crime reporters, a more enlightened policy of information and education can be devised. However the signs are that when the police want to hunt down a prison escapee who happens to be no more than an alleged IRA terrorist on remand, they can produce mountains of propaganda with complete disregard for the laws of contempt. In the case which Marjorie Jones instances concerning the two Nottingham boys, she says that although ther were un-named, so much background detail was given that they would be clearly known in their neighbourhood as alleged killers whereas "of course no English newspaper would have dared publish such details about any identified adult before trial and conviction."

As we have seen in the recent case of Peter Sutcliffe who it was strongly implied was the man that the police were seeking for the Yorkshire Ripper murders, the situation has worsened. And in the case of Harry MacKenney, even before he was arrested he was widely reported on police information as being responsible for 14 or more unsolved murders. There have been other instances of this sort over the past 18 months.

Having confined her researches to just those three particular examples referred to, it might have been quite practicable and possible for Marjorie Jones to have taken her researches further than she appears to have done. It seems to me that she could have actually contacted the reporters on the newspapers concerned. This might have added more depth to her findings and would almost certainly have made the final text a more interesting read. Given the detail contained in her 1974 study, I suppose I came out of this latest read feeling slightly disappointed.

Ian Cameron.

prison crisis

This book is a catalogue of events leading up to the May inquiry, along with an assessment of the May Report. It takes into account such issues as prison overcrowding, the use and abuse of drugs on prisoners, young offenders, the the sentencing policy of the judiciary and its effect on the prison system, the question of prison riots, and the need for a reappraisal of the issue of 'abnormal offenders'.

By far the most important question raised is the extent to which the POA's industrial actions have been justified in their attempts to assert for themselves a different strategic position within the penal system.

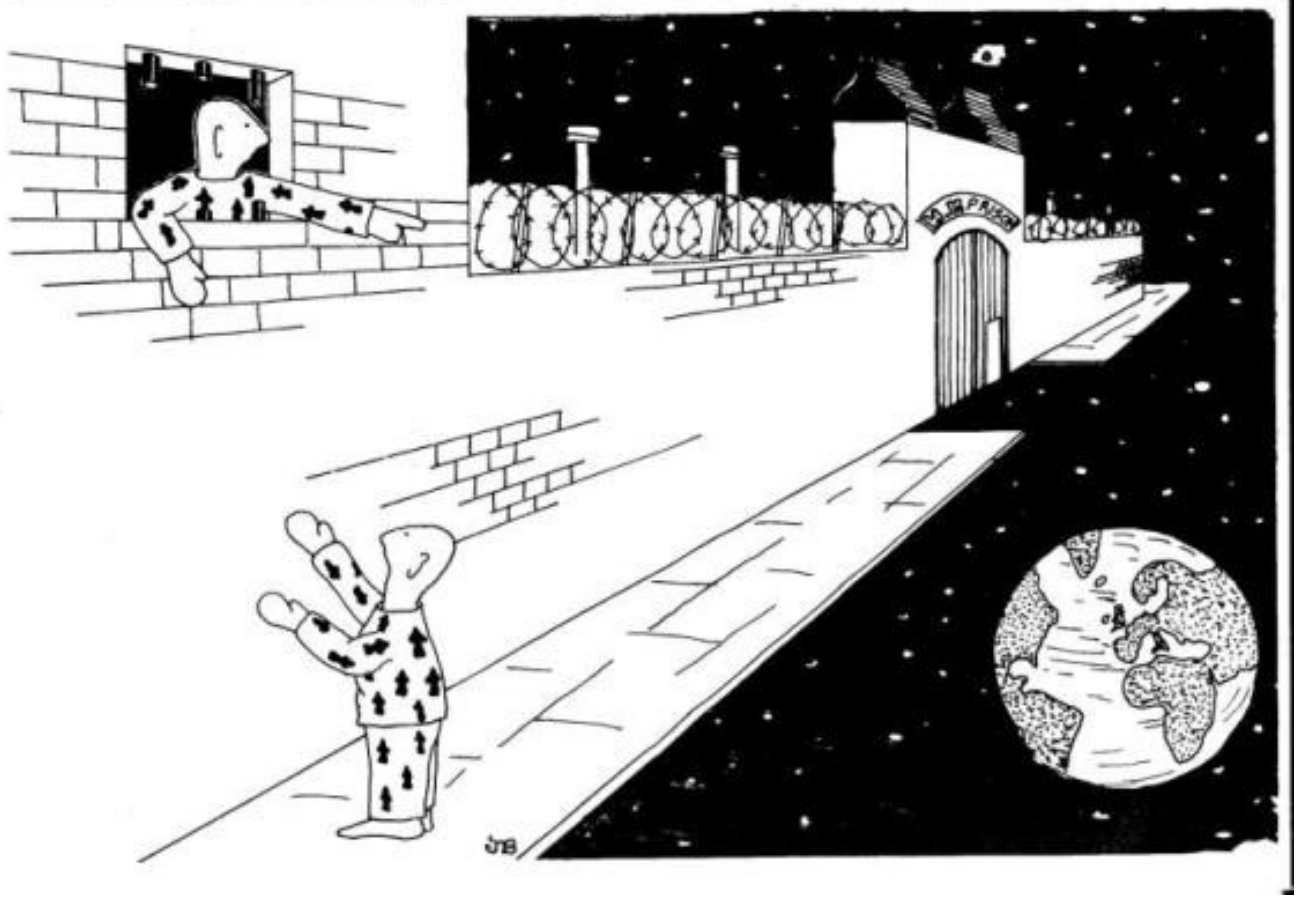
I must admit that I was impressed by the extent of Peter Evans' factual detail concerning the various committee procedures which led to the instigation of the May inquiry. However, questions such as the impartiality of the judicial system are taken for granted and the wider implications of these assumptions are very evident throughout the book. For example, in Chapter 3 Evans states with reference to the demands of Irish Republican prisoners for political status that 'Part of the IRA's campaign seems to be an attempt to make British justice appear partial,' J.A.G. Griffiths' *The Politics of the Judiciary* makes the point that judicial decisions are concentrated in a spectrum of political opinion ranging from the centre to the far right. Also, on the question of prisoners' rights and protests Evans views the implications in terms of the effects on prison officers' morale and concludes that these demands are intended as an an effort to undermine prison officers' confidence in themselves.

The issue of drugging is given serious consideration within the context of the 'prison crisis' as described throughout the book. But again the main consideration is taken to be the effect of campaigns against abuses on the POA's feeling that there has been a shift of the balance of power away from their own organization; and implicit in this view is the suggestion that pressure groups are usurpers of prison officers' power.

To conclude, certain issues of controversy, notably POA militancy, have been raised within the context of the prison crisis, with all its ramifications. However, the conclusion appears to be that the POA is the redeeming force operating within the penal system, and the wider issues such as that of alternatives to prison and their potential for relieving the pressure on the prison system, have been neglected.

John Lyons.

Prison Crisis
Peter Evans
George Allen & Unwin, £2.95.



ball and chain award..... dorset do it again

In a changing world some things remain constant. Like the zeal with which the magistrates of the county of Dorset consign their fellow citizens to prison. For the second year running, and for the third time in four years, the Dorset bench heads the annual RAP league table of rates of imprisonment. They achieved this distinction in 1979 [the last year for which figures have been published] by sending directly to prison 13.9% of the male adults charged with indictable offences who appeared before them, compared with a national average of 8.6%, and a national low of 4.6% in the county of Gwent. What this means in simple terms is that for every man sent to prison in Gwent, Dorset sends three. Other areas with high rates of imprisonment were Lancashire, Sussex, North Yorkshire and Greater Manchester.

Rates of Imprisonment in Magistrates' Courts: England and Wales 1979

Adult male offenders convicted of indictable offences and sentenced to immediate imprisonment in magistrates' courts (police force areas) in England and Wales (as a percentage of total sentences)

Area	% *	*Area*	% *
1 Dorset	13.9	23 Thames Valley	8.1
2 Lancashire	12.0	24 Essex	8.0
3 Sussex	11.7	25 Derbyshire	7.6
4 North Yorkshire	11.5	26 West Mercia	7.6
5 Greater Manchester	11.1	27 Leicestershire	7.5
6 Suffolk	11.0	28 South Wales	7.1
7 Devon & Cornwall	10.5	29 Durham	7.1
8 Nottingham	10.1	30 Cumbria	7.0
9 West Midlands	9.8	31 Dyfed-Powys	6.8
10 Cleveland	9.5	32 Norfolk	6.6
11 Gloucestershire	9.5	33 Hertfordshire	6.5
12 Avon & Somerset	9.5	34 Merseyside	6.4
13 West Yorkshire	9.3	35 South Yorkshire	6.3
14 London City	9.2	36 Staffordshire	6.2
15 Cambridgeshire	8.9	37 North Wales	6.2
16 Cheshire	8.8	38 Warwickshire	6.1
17 Kent	8.7	39 Northumbria	6.0
18 Humberside	8.6	40 Wiltshire	5.9
19 Bedfordshire	8.5	41 Lincolnshire	5.5
20 Metropolitan	8.4	42 Northamptonshire	5.2
21 Surrey	8.4	43 Gwent	4.6
22 Hampshire	8.3	National Average	8.6

** Percentages calculated from Table 4(a) of the Criminal Statistics for 1979.*

Taken at their face value, these gross variations in sentencing practice between courts in different parts of the country constitute what appears to be a systematic miscarriage of justice.

Magistrates who are responsible for this state of affairs do not necessarily agree. 'Rates of imprisonment vary' they claim 'because patterns of crime are different from place to place and from time to time.' This year, the Criminal Statistics contain figures which make it possible to test this defence.

The most obvious justification for sending more people to prison is because they commit more crime, or because they commit more *serious* crime than in other areas. The numbers of serious offences recorded by the police per 100,000 population by police force area do not however support this argument. In Dorset the figure is 3,935 per 100,000; in Gwent it is 4,702, which suggests that Gwent should send more people to prison because they have more crime there. At this point, supporters of this argument sometimes stand on their heads in order to assert the opposite, namely that there is less crime in Dorset precisely *because* more people are sent to prison, thus deterring others from following their lawless example. Unfortunately, the figures confound this interpretation as well, since the four benches at the bottom of the table, i.e. those who sent fewest men to prison, all possess serious crime rates below the national average.

The criminal statistics show in fact, no discernible relationship between sentencing rates and rates of offending. SENDING PEOPLE TO PRISON CAN NOT BE SHOWN TO HAVE ANY DETERRENT VALUE WHATSOEVER.

Why then do the magistrates in Dorset persist in their unjust practices? It is unlikely that they are unaware of their punitive record, but they may feel that it is not possible to change the way they deal with the offenders who appear before them. In that case they should try to follow the example of two previous leaders in RAP's annual league table: the counties of Avon and Gloucester, both of which have substantially reduced the proportion of male adult offenders they send to prison. In 1977 Gloucester magistrates occupied the number one position in the table above Dorset. In 1978 they were third. This year they have fallen to eleventh place with a score only a little above the national average, and almost a third lower than their previous levels.

Radical Alternatives to Prison Bristol Group believes that this represents a deliberate change in sentencing policy on the part of the Gloucester bench in response to the adverse publicity they have received in previous years' league tables.

IF ALL THE BENCHES IN ENGLAND AND WALES FOLLOWED THE EXAMPLES OF GLOUCESTER AND REDUCED THEIR COMMITALS TO PRISON BY ONE-THIRD . . . NO LESS THAN FOUR THOUSAND MEN WOULD BE KEPT OUT OF PRISON EACH YEAR, AT A NETT SAVING TO THE TAXPAYER IN EXCESS OF FIVE MILLION POUNDS.

In the longer term RAP would like to see the power to imprison removed entirely from the magistrates' courts so that they could concentrate on more constructive community-based sentencing. Cases which were thought to merit prison sentences could be remitted to the Crown Courts where the rates of imprisonment are much more uniform throughout the country.

Radical Alternatives to Prison
Bristol Group

LAW & ORDER

For those of us in RAP who felt, however vaguely, that the BBC2 series 'Law and Order' might contribute something towards changing public attitudes to the police and the prison system, this Listener review should serve notice that we have a long way to go. Of course, readers of The Listener' hardly constitute 'public opinion' any more than David Wheeler is at the centre of that very complex process which constructs that opinion. His attitude, however, shows just how reluctant some people are to accept what many of us in the penal lobby take to be workaday truths. We may not argue that 'every man on the staff of a particular prison (would) qualify for the highest ranks of the SS , but most of us would believe just about everything else that the incredulous Mr Wheeler finds so difficult to admit - except, of course, his staggeringly naive solution!!!

The Listener

television

In *A Prisoner's Tale*, the final episode of *Law and Order* (BBC2), we were introduced to a slice of prison life far removed from the larkier atmosphere of *Porridge*. As with most productions from the Garnett-Leach stable, it combined superior direction (on this occasion by Leslie Blair) and unusually good acting with a story that presented extreme situations in the style and mood of documentary realism. Lynn, the criminal brilliantly played by Peter Dean, was shown arriving in prison full of grit and resentment at being sentenced on a frame-up, and gradually, with the failure of his appeal and the repressive measures employed by the authorities, being cowed into submission.

There was a strong sense, familiar to anyone who has seen other Garnett productions, of the film-makers wanting to have it both ways. This is how things are in prison, they say. And then, when taxed, as they undoubtedly will be, by those who say this is not at all the way things are in prison, they are able to retort: 'Well, this is fiction, after all.'

Is there, for example, a prison governor in these islands who refers to his charges, as this one did, as "animals", and threatens a difficult prisoner, 'I'm going to break you!'? Would a prisoner really be sentenced to 56 days solitary by a governor and told by him: 'For the slightest offence against discipline, you will go back to day one and start all over again'? There are sadistic warders, no doubt, and it can never be a pleasant job, but would every man on the staff of a particular prison qualify for the higher ranks of the SS? Would a prisoner be able to bribe a warder into letting him make love to his wife on a visiting day? And are the prison authorities empowered to use drugs, without any medical reason, to knock the stuffing out of a recalcitrant prisoner?

The theme of this series has been to demonstrate that law and order is a grey zone, inhabited by perjuring police, shady lawyers and evil prison officers, most of them indistinguishable from the criminals they deal with. Insofar as this may be true, I am not sure where it gets us. Perhaps we should look on the films as a plea for a better class of person to enter the police and prison services.

David Wheeler

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