

PRISONS

**'Downsizing' Britain's
prison population**

**Economic rationalism scores a victory
over law and order. DAVID
HEILPERN reports.**

Imprisonment in the United Kingdom is at a crisis point with a set of damning figures and reports that have led to an interesting reaction from the Conservative Government. This brief looks at the current debate in the United Kingdom where the tables seem to have turned with Conservatives committed to a policy they believe will lead to a substantial reduction in prison population.

The United Kingdom has the highest rate of imprisonment per 100 000 people of any nation in Europe – by way of comparison it has a rate three times that of Turkey. Over 24% of those imprisoned are under 21. Yet successive reports and studies point to less crime, particularly violent crime in the United Kingdom than in the rest of Europe.¹

The number of people imprisoned on 18 October 1992 was a staggering 49 328, and growing at such a rate that according to the National Association for the Care and Resettlement of Offenders (NACRO), a new prison will need to be built every six weeks just to accommodate the new arrivals. There were 3643 prisoners serving life sentences in 1992. The number of such prisoners in 1980 was 1535. The Home Office predicts that there will be a 25% increase in prisoner population by the year 2000.²

To cater for this growth the prison service is adding over 2000 new uniformed officers each year to the existing 20 000 uniformed officers. 'Auxiliary Officers' with no training are increasingly filling the gap. Since 1985 there have been 12 new prisons built, a further nine are under construction creating over 7500 new cells.³

The cost of all this per prisoner is up to \$1500 a week for maximum security, compared with \$2500 a year to supervise a person under a community service order. According to the Home Office, the expenditure on criminal justice has risen by 77% in real terms since 1982.⁴ Over 50% of released males will re-offend within two years, 78% within five years.

Public confidence in the judicial system and the police has, at least, been severely dented by the belated recognition in well known cases that lengthy terms served were indeed a travesty of justice. The prisons were rocked by serious riots in February 1990 detailed in the Woolf report published in February 1991. In private conversations officers have consistently expressed the view that their jobs are becoming more dangerous. Their monthly journal reports an incident list of assaults on prison officers that extends in most issues to two pages.

Conditions within the prisons themselves are appalling. I have visited several in London recently and the predictable



problems of overcrowding, tension and a run down system are apparent. Visits for many prisoners are limited to under seven hours per annum. Prisoners are two, often three, and sometimes four to a cell.

This picture is in stark contrast to the rest of Europe where, for example, Germany has managed to decrease its prison population by 12%. On the other side of the Atlantic the United States is an example of a society that imprisons even more – in Britain the figure hovers beneath 100 per 100 000. In the United States the figure is 300 per 100 000, meaning that over 1 million Americans are in prison.⁵

The Conservative Government in the United Kingdom has until recently staunchly defended this growth of prisons with a combination of 'law and order' and 'just deserts' rhetoric. In a landmark book, Phil Scratton documents this defence in chilling terms with examples of the Conservative legislative program and the increasing reliance on the police state.⁶

In 1989 the Carlisle Report on the parole system recommended *inter alia* that the system of remission and parole be rationalised.⁷ In general terms the system was that a prisoner could expect to serve a minimum of one third of the head sentence in custody, with a further third on supervised parole. Carlisle recommended that each prisoner serve a greater proportion of their sentence in custody, but that there be a concomitant reduction in sentences applied by the courts.

The *Criminal Justice Act* 1991 and the White Paper that preceded it adopted these recommendations in part by providing that prisoners must serve half their sentences in custody, and the other half on supervised parole. The Act also *decreases* the maximum penalty for some common property offences and increases the maximum penalty for crimes of violence against the person. A custodial sentence may not be passed unless the court is of the opinion that the offence is 'so serious

that only such a sentence can be justified for the offence'. Sentences should not be lengthened for deterrent reasons – they should be calculated on the basis of what the person deserves.⁸

In introducing the Act in the House of Commons, Mr Waddington said: 'If the end result is a fall in the prison population I shall be very glad, but that is not the sole objective'. During the second reading speech he stated that the proposed changes should produce a nett reduction of 2000 prisoners. During the debate it became clear that this was a hope rather than a reality, but that an annual reduction in prison numbers had been calculated as a likely outcome.⁹

The stated reason for the changes is economic – the White Paper discusses the expense of imprisonment in its first paragraph and continues the theme all through – it openly states that the proposals will lead to a reduction in prison numbers thus saving tax payers money.

Prison officers, NACRO and academics voice doubts that the numbers will decrease unless there is a tariff reduction by the courts to take the changes into account. If this does not occur, they argue, there may even be an increase now that for many prisoners the minimum term has grown from a third to a half of the maximum sentence for their respective offences. The courts in the UK have, with few exceptions, adopted the view that, in sentencing, the court should not take remission or parole into account.¹⁰

As the Act only came into force on 1 October 1992 a reduction in the prison population remains to be seen. The important point at this stage is that economic rationalism seems to have won a victory over law and order – even the Conservatives in the United Kingdom seem convinced that greater prison numbers are not the answer to crime and that the drain on resources is too great when the returns are not apparent. The United Kingdom seems to be influenced by the Western European example of lower imprisonment together with the massive decarceration in Eastern Europe.¹¹

A perusal of the tabloid newspapers' coverage of the White Paper and the Act shows none of the expected outcry about the goal of reducing inmate numbers and the reduction of penalties for some property offences. The outcry in Australia would be deafening should any political party espouse the reduction of prison numbers through a combination of early release, lower penalties and increased use of available alternatives.

Perhaps the lesson for those of us who shudder at legislation that leads to greater numbers of prisoners is that we should avoid arguments about cruelty, degradation and rehabilitation and hammer instead at the issue of cost.

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References

1. National Association for the Care and Resettlement of Offenders (NACRO), *Briefing* No. 25, pp.1, and 3; Home Office Statistical Bulletin 10/92; that there is less crime is so whether on the basis of reported crime or victim survey. See, for example, Kluwer, R., *Experiences of Crime Across the World*, 1990.
2. Home Office Statistical Bulletin 11/92, 7/91, 10/92; NACRO *Briefing* 24, p.3.
3. HM Prison Service *Welcome to the Prison Service* induction manual/brochure.

4. White Paper: *Crime Justice and Protecting the Public*, Cm 965, 1991, p.3.
5. Duce, Rev. A.D., 'Penal Policy – an International Approach', (1992) 82 *Prison Service Journal*, p.2.
6. Scratton, P., *Prisons Under Protest*, OUP, 1991.
7. Report of the Review Committee, *The Parole System in England and Wales*, Cm 532, 1988.
8. *Criminal Justice Act 1991*, as discussed in Thomas, D.A., *Sentencing Under the Act*; Wasik, M., *Release and Parole* (1992) *Criminal Law Review*, April, p.232.
9. Wasik, M., above, and Hansard, Second Reading Speech, *Criminal Justice Act 1991*.
10. *Kenways Case*, (1985) 7 Cr App R, 457 at 461.
11. Actual numbers are sketchy. However, it is clear that prisons are being emptied at a massive rate. If the example of Poland is a guide the prison population has been halved in the last seven years. See, for example, Platek, M., 'Sluzewiec Prison, Poland' in Whitefield, D.G. (ed.) *The State of the Prison – 200 Years On*, Routledge, 1991, p.58.

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