Working Notes Issue 52 Editorial

on Friday, 21 April 2006. Posted in Issue 52 Mental Illness in Irish Prisons: A Solitary Experience?, 2006

April 2006

The Report of the Expert Group on Mental Health Policy, *A Vision for Change*, was published in January 2006. In his introduction, Tim O\'Malley TD, Minister of State with special responsibility for mental health, states that the Report is intended to set out "a comprehensive policy framework for our mental health services for the next 7-10 years".

This is the first formal review of the mental health policy framework since *Planning for the Future* in 1984. The Report says that while there have been significant achievements in the period "it is questionable whether the spirit of the community-oriented model has been fully implemented, that is, whether the main provision of care has fully moved from in-patient settings to the community".

Media coverage of the Report drew considerable attention to the proposal that all remaining psychiatric hospitals should be closed. Less attention was given to outlining the radical proposals which the Report makes for services to replace these hospitals. As an overarching principle, the Report says that: "Each citizen should have access to local, specialised and comprehensive mental service provision that is of the highest standard". Emphasis is placed on ensuring that people with mental health problems are able to receive a range of services, provided in a coordinated manner by a multi-disciplinary teams, so that the complex difficulties which they so often experience can be addressed. A \'recovery\' approach should inform every level of service.

A Vision for Change sees as crucial enabling users of services to be active partners in their own recovery. It also gives considerable attention to the promotion of mental health throughout all sections of the community.

Unsurprisingly, *A Vision for Change* highlights the need for additional resources to provide the comprehensive and quality services it proposes. The Report notes that as expenditure on health services overall has risen since the late 1990s, the share allocated to mental health services has declined, even though the absolute budget for the sector has risen. In 1984, 13.0% of health expenditure was spent on mental health services; by 1994, this had declined to 10.1 % and by 2004 it had fallen to 7.3% . However, while calling for additional resource, the Expert Group also suggests that in some catchment areas resources are already generous, and that there is need for increased monitoring of mental health expenditure, "to ensure that services demonstrate both effectiveness and efficiency." Nevertheless, the full implementation of the far-reaching recommendations of the Report will clearly involve additional public expenditure, and a failure to provide this will inevitably doom the proposed policy change.

Too often in Ireland, national policy and strategy documents are announced with considerable fanfare and a general statement that the Government is committed to implementing the proposals outlined - only for this initial enthusiasm to be followed by inaction. We urge Government not to allow this to happen in relation to the proposals of *A Vision for Change*, but instead to fully commit

itself to addressing a problem that results in considerable human suffering for many people in our society.

One of the consequences of the shortcomings in Irish psychiatric services, which has been highlighted in several reports, is that many people with mental illness are ending up in prison. The article on "Mental Illness in Irish Prisons", in this issue of *Working Notes*, explores issues and concerns in respect of mental health services in Irish prisons. We would like to particularly thank Dr Harry Kennedy for making available a report *Mental Illness in Irish Prisoners* that is shortly to be published.

Still Waiting for Housing

on Friday, 21 April 2006. Posted in Issue 52 Mental Illness in Irish Prisons: A Solitary Experience?, 2006

Peter McVerry SJ
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Housing Need

The findings of the Local Authority *Assessments of Social Housing Needs*, carried out in March 2005, were released by the Department of the Environment, Heritage and Local Government in December 2005.1

The figures show a reduction in housing waiting lists of 9.8% from the previous assessments in 2002 (Table 1).2

Table 1: Households Awaiting Social Housing

1993	1996	2002	2005
28,624	27,427	48,413	43,684 [2]

Dublin saw a de-crease in waiting lists of 20% (from 15,674 down to 2,608); Limerick City Council had the largest increase, with waiting lists rising by 49% (from 581 to 867).

In a comment on the overall decrease in waiting lists, the Department claimed that:

Continuing increases in overall housing output and growth of both social and affordable housing provision are having positive impacts on waiting lists. 2004 was the tenth successive year for record house completions - with 76,950 units completed - demonstrating that the government measures introduced in recent years have been successful in boosting the supply of housing to meet the unprecedented demand. House completions in Ireland are at the highest level in Europe in relation to population - around 19 units per 1,000 population.3
Both the waiting list figures and the Department\'s reasoning require further analysis.

> *At this rate, some households currently on the waiting list would be finally housed in 2030 - provided no other households join the waiting lists between now and then!*

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The Reasoning
The Department\'s analysis of the reasons for the decline in the recorded figures also requires reflection. The Department is, of course, correct in saying that the "growth of both social and affordable housing provision" has contributed to a decline in the waiting lists. However, the thrust of the Department\'s argument is that the overall growth in housing output is having an impact on waiting lists. Well over 90% of that output is private housing, and its huge growth has not been

accompanied by even a stabilisation of house prices. On the contrary, prices have continued to rise, so that some people who previously could have afforded to purchase a home are priced out of the market and onto social housing lists.

Furthermore, the reality is that the majority of those on social housing waiting lists may never be in a position to afford to purchase, even if house prices moderated. In the circumstances obtaining in Ireland right now, the housing waiting lists are dependent, not on the total housing output which is the focus of the Government\'s claim that the situation is improving, but on the affordability of that housing, and on the level of provision of social housing and, to a much smaller extent, of subsidised housing for purchase (so-called \'affordable housing\').

Housing Prices

Between 1993 and 1996, the number of people waiting on social housing actually de-creased. It was during the core years of the Celtic Tiger that the numbers almost doubled. These were the years which saw the exponential increase in house prices, which made it impossible for an increasing number of people, especially first-time buyers, to own their own home.

Between 1994 and 2004, the Consumer Price Index rose by 35%. During this period, the average new house price rose by 243% (over seven times the Consumer Price Index) while the average second-hand house price rose by 322%. Even more telling is the comparison of house prices with the average industrial wage: in 1984, the average price of a new home was 4.3 times the average industrial wage; in 1994, it had dropped slightly to 4.2 times; in 2005, it was 9.1 times the average industrial wage (11.5 times in Dublin).5

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The cause of such exceptional house price rises is clear: a substantial increase in population due to the need of the Celtic Tiger for workers, an increase in incomes for those at work, the willingness of financial institutions to make funding easily available for borrowers - including investors and speculators - and low interest rates all combined to create a market situation where developers could \'name their price\'.

Options for controlling the price of houses were available, and recommended, to Government. 40% to 50% of the price of a house is due to the price of land. In 1973, the Kenny Report recommended legislative change to enable land designated for housing to be compulsorily purchased by local authorities at existing use value plus 25%. This recommendation, although put forward by a High Court Judge, was immediately dismissed as unconstitutional by politicians. The cosy relationship between politicians, builders and developers revealed in recent Tribunals might suggest a reason. Thirty years on from the publication of the Kenny Report, the All-Party Oireacthtas Committee on the Constitution came to the view that there were, in fact, no constitutional barriers to the enactment of legislation to give effect to the Kenny recommendation on the price of land.6 The Committee\'s Report was published in April 2004 - and since then there has been no indication by the Government of any real intention to act on the Report\'s recommendations.

During the Celtic Tiger years, the Bacon reports7 recommended both the elimination of mortgage

interest relief to investors and second-home buyers and the introduction of a punitive tax to discourage speculation.

While the first was briefly introduced, it was quickly reversed, after intensive lobbying by the property industry; the second was never seriously considered.

The failure of Government to introduce policies that could have controlled the price of housing has consigned many who could have been enabled to purchase their own homes to long waits on social housing waiting lists.

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Provision of Social Housing

Social housing for those households who cannot afford to purchase housing in the market is provided primarily through local authority housing at affordable rents, based on the income of the household. It is also provided through voluntary housing associations who, with Government financial support, have created over 11,000 social housing units since 1993.

Analysis of trends in social housing output reveals that the Department\'s positive view of the increase over recent years in both social and affordable housing provision is too optimistic. Table 2 shows that despite the growth in local authority and voluntary housing association house completions since 1993, new social housing constitutes only a very small percentage of overall housing output.

Table 2: Growth in Housing Output Since 1993

Year	Total Number of House Completions	Social Housing Completions	Social Housing as % of total output
1993	21,391	2,090	9.8%
1999	46,512	3,488	7.5%
2004	76,954	5,146	6.6%
2005	80,957	3,819 (in the first 9 months)	7.2%

A proper analysis of social housing provision requires a longer timeframe. The figures for current output look very different if compared to both the 1970s and 1980s (when the country was awash with debt!) and the level of output up to 2012 recommended by the National Economic and Social Council.

The 1970s and 1980s

From 1972 to 1986, the number of local authority houses completed each year ranged from a low of

5,500 to 8,794. Table 3 shows that in 1985, the number of new social housing provided was higher than the 2005 estimated figure. Social housing represented 27% of the total new housing in 1985; now it struggles to go much beyond 6%.

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Table 3: Housing Completions 1975 to 1985

Year	Total House Completions	Social Housing Completions
1975	26,892	8,794
1980	27,785	5,984
1985	23,948	6,523

In 1987, the decline in social housing output began and, as Table 4 (p. 14) shows, only 3,074 houses were completed in that year. Thereafter, the number of completions dropped to a low of 768 in 1989 and remained low for several years.

Table 4: Housing Completions 1987 to 1992

Year	Total House Completions	Social Housing Completions
1987	18,450	3,074
1989	18,068	768
1992	21,391	1,482

In 1993, funding for voluntary housing associations to build or purchase social housing began. The number of local authority houses being built again began to increase, but was still substantially less than the output during the 1970s and 1980s.

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Table 5: Housing Completions 1993 to 2000

Year	Total House Completions	Social Housing Completions
1993	21,391	2,090
1996	33,725	3,593
2000	49,812	3,155

In summary, in the 1970s and 1980s, new social housing, as a percentage of total housing output, was between 20% and 33%. (Actually, from 1922 up to the mid-1960s, 50% of all housing output was social housing.) The increase in the past few years, while welcome, still puts the provision of new social housing well below 10%, despite the scale of need established by the local authorities assessments - which as already argued are unlikely to have captured the true extent of the requirement for social housing. NESC RecommendationsThe National Economic and Social Council (NESC), in its December 2004 Report, Housing in Ireland: Performance and Policy, recommended that an average of over 9,100 additional social housing units be provided each year between 2005 and 2012. In other words, NESC envisaged an increase over eight years of 73,000 units, net of tenant purchase. This would bring the number of social housing units up from 127,000 in 2004 (in 1961, there were 125,000 social housing units available) to 200,000 by 2012.8 In the ten years from 1995 to 2004, an average of 4,275 social housing units were provided each year, less than half the output recommended by NESC. However, the overall position is worse than these figures indicate. Since the 1980s, when the public finances were in dire straits, local authorities have encouraged their tenants to purchase their homes, at substantially reduced prices. This provided the local authorities with badly-needed finance and also reduced the cost of maintaining local authority homes. This policy has continued to the present day. When the sale of local authority houses to sitting tenants is taken into account, the actual increase in social housing units over the past ten years was only 3,300 per annum. To meet the target set by NESC, the number of new local authority and voluntary housing units being provided would need to more than triple over each of the next seven years. There is no evidence of any sense of urgency in any political party to make a commitment to expand social housing output to this level. In the light of the current need for social housing, the policy of selling social housing units is difficult to justify. It seems even more absurd to sell existing social housing units at substantially less than market prices when they have to be replaced by building or purchasing replacement units at the full market price. Those who wish to purchase their own homes can now do so through affordable housing and shared ownership schemes which were not available to them in the 1980s when the policy of selling social housing was encouraged. The Cost of FailureThe cost of failure in Irish housing policy (if it can be called a housing policy at all) is, of course, borne primarily by those households who have to continue to live in unsuitable, overcrowded, rundown accommodation, in insecure B&Bs or hostels for the

homeless. The stress entailed in living in such unsuitable conditions can destroy relationships between partners leading to the break-up of the family unit; it can seriously damage relationships between parents and children, lead to increased mental health problems, early drop-put from school, and youth homelessness.

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However, there is also a quantifiable financial cost to the State. Many thousands of households who could have purchased their own homes if the price of housing had been controlled, now have to be provided with housing by the State, either at market house prices in social housing units or with considerable financial subsidy in affordable housing. Many on the housing waiting lists are currently living in private rented accommodation, often very sub-standard, sometimes unfit for habitation, at enormous cost to the State in rent supplements. In 1994, 30,000 households were receiving rent supplements towards the cost of private rented accommodation: by 2004, this had doubled to 60,000. Furthermore, the cost of renting had escalated: a small bed-sit which in 1994 could be obtained for €40 or €50 now costs €120. Thus the cost to the State of supporting people in private rented accommodation has risen from €7.8 million in 1989 to €354 million in 2004.

Public-Private Partnerships

The apparent success of public-private partnerships in providing expensive transport infrastructure has prompted the idea that such partnerships might be successful in providing expensive housing. This mechanism involves providing private developers with land, owned by the local authority, free of charge in return for an agreed number of social and affordable housing units. In this fashion, the local authority can obtain needed social housing at apparently no financial outlay.

The first PPP project in Dublin was at Fatima Mansions, which was originally built in the 1950s and contained 394 social housing units on an eleven-acre site. There is no question but that by early 2000, it urgently needed redevelopment. In 2002, after consultation with residents, it was proposed to demolish the existing complex and replace it with 220 social housing units and 280 private housing units, the funding to be provided by Government. While this entailed an overall loss of 174 social housing units, both local residents and the local authority were agreed that the concentration of 394 social housing units in a small area was undesirable. However, in 2003, it was announced that the funding had been withdrawn and that the redevelopment would now be delivered through a Public-Private Partnership. The plans were revised to require the developer to provide just 150 social housing units (value approximately €22.5 million), along with 450 private houses, in return for 14 acres of prime land (value between €100 million and €140 million).9

While no actual cash is required from a local authority which is struggling to balance its books - and therefore sees this as a very attractive option - the cost to the State of securing these 150 social housing units is enormous. There is surely an urgent need to reconsider any further use of a mechanism that so heavily subsidises private sector developers for such limited public return.

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Homelessness

People who are homeless are dependent on the availability of social housing if they are to have any

chance of obtaining secure and affordable accommodation. Homelessness - an Integrated Strategy was launched by the Government in 2000 as a co-ordinated response to the problem of homelessness in Ireland. It proposed a series of interventions targeting accommodation solutions for homeless people, as well as interventions relating to health, education and employment. Funding increased from €12.6 million in 2000 to €45.7 million in 2004. While many positive developments have taken place in relation to addressing the problems faced by homeless people, I confine myself here to the critical issue of accommodation.

Under the Integrated Strategy, each local authority was required to assess the homeless situation in its area and prepare an Action Plan to provide accommodation for those assessed as homeless. Local authorities were also required to allocate a certain proportion of their lettings to provide suitable accommodation for homeless people.

As a result of the Strategy, there was a significant increase in emergency accommodation provided for homeless people, which has led to a substantial decrease in rough sleepers. However, the provision of long-term accommodation for homeless people has been less successful. Some local authorities did, in fact, ring-fence a certain proportion of their lettings for homeless people (Dublin City Council, for example, states that 30% of its lettings now go to homeless people).

However, few local authority housing units are suitable for single homeless men, who are the majority of homeless people. They have little hope of getting into local authority accommodation. Their best option for now lies with two new developments: the Access Housing Unit, run by Threshold and the Rental Accommodation Scheme which is about to be introduced.

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The Access Housing Unit seeks out private landlords who are willing to rent accommodation of suitable quality to homeless people. It builds a database of such accommodation and tries to match the needs of homeless people with the accommodation available. It is a valuable, but very limited, option for homeless people. Few landlords are willing to subscribe. Established in 2003, the scheme created 83 tenancies in that year, and 80 tenancies in 2004.

The Rental Accommodation Scheme places the onus on local authorities to secure accommodation for those who have been living, with rental subsidies from the State, in private rented accommodation for more than eighteen months. It remains to be seen what effect this will have.

Despite the admirable objectives of the Integrated Strategy, the increased funding and the undoubted improvements in services for homeless people that have followed, the bottom line is that the number of homeless people recorded in 2005 was only marginally less than the number recorded in 2002.

Conclusion

Since 1996, there has developed a serious housing crisis for households on low or modest incomes who cannot access the private housing market. While there has been an apparent small decrease in the number of households waiting for social housing in the last three years, the level of provision of social housing is grossly insufficient to relieve the crisis that exists for so many. As yet, there has

been no evidence of any political will to invest in social housing to the extent recommended by the National Economic and Social Council, namely an additional €500 million to €600 million per year. In the current negotiations for a new Social Partnership Agreement, the NGO sector will undoubtedly press for a commitment to meeting the NESC targets for social housing. Whether the new Agreement includes such a commitment will be an indication of the Government\'s attitude to the issue of social housing. It might be added that, in any caring society, particularly one with an abundance of resources, the provision of such a basic necessity as housing would not be an issue for discussion in Social Partnership negotiations. It should simply be done.

Over the past decade, there has been no evidence of any political will to take measures to substantially impact on the cost of land or housing. There is, however, evidence of increased reliance on the private sector to meet social housing needs, a sector which is, obviously, motivated primarily by profit. In the absence of major policy change, and of a major expansion in capital investment, the outlook for low-income households seeking housing continues to look bleak.

References:

1. Department of the Environment, Heritage and Local Government, Local Authority Assessments of Social Housing Needs - 31 March 2005, Dublin, 9 December 2005.
2. Assuming average household size, this represents about 126,300 persons.
3. Local Authority Assessments of Social Housing Needs - 31 March 2005, p. 2.
4. P.J. Drudy and Michael Punch (2005) Out of Reach: Inequalities in the Irish Housing System, Dublin: tasc at New Ireland.
5. Ibid.
6. The All-Party Oireachtas Committee on the Constitution (2004) Ninth Progress Report: Private Property, Dublin: Stationery Office, p. 19.
7. Peter Bacon and Associates, (1999) The Housing Market: An Economic Review and Assessment, Dublin; Peter Bacon and Associates (2000) The Housing Market in Ireland: An Economic Evaluation of Trends and Prospects, Dublin.
8. National Economic and Social Council, Housing in Ireland: Performance and Policy, Dublin: National Economic and Social Council, 2004 (NESC Report no. 112).
9. P.J. Drudy and Michael Punch, op. cit., pp. 154-80.

Mental Illness in Irish Prisons:

on Friday, 21 April 2006. Posted in Issue 52 Mental Illness in Irish Prisons: A Solitary Experience?, 2006

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Health Care Standards in Irish Prisons

In June 2004, the Irish Prison Service published a statement of Health Care Standards, covering the care of those detained in Irish prisons and places of detention. The core aims of the Standards are stated as being: "to provide prisoners with access to the same quality and range of instruments to which they would be eligible within the general community" and to give priority to the promotion of the health of prisoners.1

These aims accord with Article 12 of the International Convention on Economic, Social and Cultural Rights (ICESCR) which recognises "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health". Ireland has ratified the ICESCR, which under international law obliges the State to ensure that the rights enshrined in the Covenant are guaranteed for all persons in its territory.

The United Nations Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care outline the basic rights, freedoms and entitlement to care of people with a mental illness. 2 Key principles include:

- All persons have the right to the best available mental health care (Principle I)
- Every person shall have the right to be treated in the least restricted environment. (Principle 7(I))

Crucially, these standards are to apply equally to all, including "persons serving sentences of imprisonment for criminal offences, or who are otherwise detained in the course of criminal proceedings or investigations against them". (Principle 20(I))

A new study, Mental Illness in Irish Prisoners,3 carried out by a team led by Dr Harry Kennedy, and shortly to be published by the National Forensic Mental Health Service, serves to draw our attention yet again to the high incidence of mental illness among prisoners in Ireland and to the question of how well this country is adhering to its own as well as internationally agreed standards for the care of prisoners with mental health problems.

Prevalence of Mental Illness in Irish Prisons

The new study is the first systematic and representative survey of mental health in the Irish prison population. Previous studies, though more limited, still served to highlight the high incidence of mental illness among prisoners by comparison to the population as a whole. For example, a study, in late 1992 and early 1993, of a sample of prisoners in Mountjoy Prison found that 14% of pre-trial prisoners and 9% of sentenced prisoners were clinically evaluated as having a mental illness. When substance abuse was included as a psychiatric disorder, the incidence increased to 62% of pre-trial and 54% of sentenced prisoners.4

A 1996 study of female prisoners in Mountjoy Women\'s Prison again showed a very high incidence of mental ill health. One in two of the prisoners had received psychiatric treatment, and one in four had been an in-patient in a psychiatric hospital or in the Central Mental Hospital. One-third of the women reported that they had attempted suicide.5

A high incidence of mental illness among prisoners is, of course, not unique to Ireland. An analysis of the results of sixty-two surveys of prisoners in twelve countries found that almost 4% of the 22,790 prisoners covered in these surveys had a psychotic disorder, compared with an estimated prevalence for the general population of between 0.1% and 0.4%. Over 10% of prisoners suffered from major depression; 47% of male and 21% of female prisoners had an "antisocial personality disorder".6

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Kennedy Study: Findings

In the Kennedy study, a total of 1,582 prisoners were interviewed, 1,396 men and 186 women. The survey covered five separate representative samples that included 7% of all men newly committed to prison in 2003, 50% of all men in custody on remand in that year and 15% of all sentenced male prisoners. It also covered 9% of all women newly committed to prison in 2003 and 90% of all women in prison in that year.

The findings showed a very high incidence of mental illness in all the samples. Among male prisoners, 15% of those committed to prison in 2003, 25% of remand prisoners and 22% of sentenced prisoners had a mental illness of some kind. Among female prisoners, the rates were even higher: 37% of sentenced women and 23% of women committed to prison in 2003 had a psychiatric illness.

The study found an incidence of psychosis among Irish prisoners that was significantly higher than in comparable samples in other countries. Rates for psychosis among men varied between 7.6% among those on remand in 2003; 3.9% of those committed to prison in that year and 2% of sentenced prisoners. Among women, the incidence of psychosis was 5.4%.

The extent of mental illness among prisoners committed during 2003, highlights the high incidence existing before custody, and therefore before the impact of being detained in an environment likely to increase the risk of illness.

With regard to alcohol and drug dependence, the findings of the Kennedy study are striking and alarming. In the different samples, between 61% and 79% of prisoners were experiencing dependence. Furthermore, most prisoners with a mental illness also had problems with drugs and alcohol.

The problem of mental illness in the criminal justice system is, of course, wider than is revealed by the incidence of mental illness among prisoners. This larger group would include people who come into contact with the Gardai as a result of an alleged infringement of the law or because of their disturbed behaviour; people who appear before the courts and who have a mental illness which may or may not be brought to the attention of the court, and people who receive a court conviction but are given a sentence other than imprisonment. There are no available statistics to indicate the

number of people who come into these categories, but the incidence of mental illness among prisoners suggests that it must be significant.

Why Such a High Incidence?

The factors underlying the high incidence of mentally illness among prisoners are complex. However, it is clear that the features that so often characterise the backgrounds of prisoners - social deprivation, high unemployment, substance abuse, low educational attainment and lack of skills, family breakdown and parental absence - are all in themselves factors which give rise to increased risk of mental illness. The Kennedy study includes some information on the background of the prisoners interviewed and this confirms the findings of previous Irish studies, in showing that a disproportionate number came from Dublin; a significant number had, in childhood, spent time in care or in juvenile detention centres; most had been unemployed at the time of their imprisonment, and many had experienced homelessness or living in insecure accommodation.

The Kennedy study also draws attention to two issues which frequently have been cited as factors in the high incidence of mental illness among prisoners - namely, the inadequacy of mental health services as a whole and the failure to devise ways of ensuring that offenders with a mental disorder can be diverted away from the criminal justice system and into care and treatment.

Shortcomings in Mental Health Services

Since the 1950s, advances in the effectiveness of psychiatric medications have allowed greater possibilities for treating people with mental disorders on an outpatient basis, decreasing the need for hospitalisation. The result, world-wide, has been a systematic shift of emphasis from providing psychiatric care in large, residential psychiatric hospitals to community-based treatments.

The guiding principle that appropriate treatment should be offered in the least restrictive environment, is widely accepted in theory. The reality in many countries, however, is that the range and level of provision of alternatives to institutional care have been far from adequate.

Several Irish reports, including the Annual Reports of the Inspector of Mental Hospitals, have drawn attention to the inadequacies of Irish mental health services. A report in 2003 by Amnesty International (Irish Section) drafted in consultation with many stakeholders in the medical profession, service providers and the NGO community, concluded:

> *While many strides have been made in Ireland in improving mental health care services, development to date has been piecemeal and reactive, with the result that, in both in-patient care and the community, they remain inadequate in many respects, and inconsistent in their application throughout the country.7*

The most recent examination of the Irish mental health services is that of the Expert Group on the Mental Health Services, whose Report, A Vision for Change, was published in January 2006.8 The Report shows serious inadequacies in the mental health services for all the main population categories - children and adolescents, the general population, those with severe and chronic mental illness, older people.

A Vision for Change highlights, in particular, that the comprehensive services provided by multi-disciplinary teams, which are widely agreed to be essential if the various and complex needs of

people with mental illness are to be met, are often not available. There is, for example, an inadequate provision of psychological, counselling and social support services. There is also insufficient provision of services at community level - services that would be \'accessible\' not just in terms of geographic proximity but in terms of acceptability. Both outpatient services and community-based acute services are inadequate. Patients themselves - as well as their families - are not sufficiently enabled to be involved in the development and implementation of plans for their care and recovery.

Speaking of the needs of people with "severe and enduring" mental illness, the Expert Group states that they are perhaps the "most vulnerable in the mental health service" and that the ultimate test of the overall quality of mental health services is the quality of care provided for these people (p. 104). The Group says that the programme of ward closures which has resulted in a dramatic decrease in the numbers of people in psychiatric hospitals (from 19,801 in 1963 to 3,556 in December 2004) has not been followed by the provision of adequate community-based mental health services and of the other care services needed to the address the significant problems which people in this situation may have in living their daily lives. Many experience repeated admissions to acute hospital care, "despite the clear evidence of the failure of a predominantly medication-based, bed-based service to meet their needs". The Expert Group comments:

The lack of appropriate services for this group of service users has had major consequences for mental health services and for the individuals themselves. In addition to the distress of illness, they are at high risk of ending up homeless, becoming involved in petty crime, being inappropriately imprisoned, or being in a state of social isolation and dereliction. (p. 105, emphasis added)

This is not the first time that an official Irish report has explicitly cited the failures of mental health services as a reason for people with mental illness ending up in prison. In 2001, another committee, the Review Group charged with examining the Structure and Organisation of Prison Health Care Services, stated:
It is clear that for one reason or another, there is a significant and apparently growing number of persons who are not benefiting from the services available to a varying degree under the aegis of the health boards. The Prison Service believes strongly that this situation has led to a continuing increase in the number of persons with psychiatric problems who end up in prison9

What the Review Group and, now, the Expert Group have highlighted is, in effect, the transfer of responsibility for people with mental illness from mental health services to the prison system.
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The Need for Diversion
Another key reason that so high a percentage of people in prison have a mental illness is that the criminal justice system as a whole lacks adequate powers, mechanisms and resources to ensure that people with mental illness who come into the system can be diverted to mental health and other care services and away from prison. At the present time, Irish legislation regarding persons with a mental disorder who come before the courts makes provision only in relation to those pleading \'guilty but insane\' or those found \'unfit to plead\' - in other words only the relatively small percentage of defendants with a severe mental illness impacting directly on the question of their guilt in relation to the crime with which they have been charged.

If a defendant does not come within these narrowly defined categories, but the court has concerns that he or she may be suffering from a mental illness, it has no formal powers to arrange that the person should receive treatment. The 1995 White Paper on Mental Health noted that in the absence of a \'formal mechanism\' a judge had three options - to postpone sentencing and remand the person on bail on the understanding that he or she seek a medical assessment and/or treatment; to remand the convicted person in prison with a recommendation that he or she receive psychiatric assessment; to annex to a sentence of imprisonment a recommendation that the person receive psychiatric treatment.10

The White Paper on Mental Health acknowledged the need for legislative change to provide formally for the assessment and treatment of accused or convicted persons suffering from a mental disorder. "Ireland is unusual among European countries in not providing in law for such treatment and assessment."11

The call for new legislation was reiterated in 2001 in the Report of the Review Group on the Structure and Organisation of the Prison Health Care Services. The Criminal Law (Insanity) Bill, 2002 represents potential for progress in this area, since it provides somewhat wider options and greater safeguards in relation to people with serious mental illness who come into the criminal justice system. However, the fact remains that it does not address the situation of those defendants who have a mental disorder but not one of such severity that they would come within the scope of the narrowly-defined situations with which the Bill it is intended to deal. The right of such people to receive care and treatment, rather than punishment, is still not addressed.

In a reply to a Dail question, the Minister for Justice, Equality and Law Reform acknowledged the limited scope of the Bill when he stated: "the Bill is not designed to alter the sentencing powers of courts to include treatment orders, so that persons who are mentally ill, but who are not found to be criminally insane, who are charged with or convicted of a criminal offence, could be sent to an appropriate local hospital instead of being committed to prison."12

A number of commentators on the Bill have argued that its provisions should be widened to provide courts with a range of options for dealing with defendants who have less severe mental illnesses. Examples of such options might be to enable the court remand a person on bail so that they could receive psychiatric assessment on an outpatient basis, or provide the court with the power to place defendants under an order to attend an outpatient psychiatric treatment centre.

In any case, even the narrowly focused Criminal Law (Insanity) Bill has not yet been passed - nearly four years after its publication.
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Psychiatric Services in Prisons
The study by the Kennedy team identifies three major ways in which the present mental health care services in prisons fall short of desirable standards:
1. There is an incomplete provision of treatment modalities in prisons, for example, psychology, occupational therapy, counsellors, etc. A multidisciplinary approach is not widely available in prison.

2. Patients requiring inpatient hospital treatment are transferred to a special security hospital

(Central Mental Hospital) regardless of their security needs. In its 2001 report, the Review Group on Prison Health Services pointed out that, in fact, there was no legal requirement that inpatient care for prisoners be provided only in the Central Mental Hospital. However, it noted that, partly due to the unwillingness of local health services to provide inpatient services for prisoners, "a practice has developed over the last 20-30 years where.. prisoners requiring psychiatric care are not treated locally but are transferred to the Central Mental Hospital with significant attendant inconvenience and disruption." (p. 39) The Review Group pointed out that this policy contrasts with that which pertains when a prisoner needs surgical or medical inpatient hospital care. In addition, the Group drew attention to the fact that there is a long waiting list for entry to the Central Mental Hospital, with the result that many of the prisoners who are recommended for transfer to inpatient psychiatric care never receive it.

3. Acutely disturbed patients with mental illness in prison are often confined to isolation cells (\'strip\'/\'pad\'). The Kennedy report notes that beyond being an immediate response to a crisis situation, there is no therapeutic benefit from confining a person who is acutely disturbed: rather, there is a danger of harm if the containment is prolonged "for more than the shortest of durations". The Irish Penal Reform Trust has drawn attention to the use of isolation in Irish prisons13 as has Amnesty International (Irish Section). In 2002, the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment, following its examination of conditions in Irish prisons, stated:

In general, material conditions in (isolation) cells, including sanitary arrangements, were very poor. Persons in need of in-patient psychiatric treatment remained in padded cells for days and, on occasion, for longer periods. In the CPT\'s opinion, such treatment could well be characterised as inhuman and degrading.14

Kennedy Recommendations

Kennedy and his co-authors put forward a series of specific recommendations in relation to prison mental health services. These are:

- Mental health services should be reorganised with the adoption of a multidisciplinary approach for its delivery. This should include:
    - prison mental health nurses (with training in psychiatry) dedicated to mental healthcare of the prison population.
    - better screening procedures undertaken by persons trained in the assessment of mental illness and suicide risk.
    - better access to allied health services including occupational therapy, psychology and counselling.
- The practice of confining prisoners in isolation for mental health reasons should be ended. In the absence of suitable alternatives, provision should be made for appropriate local low secure units and reorganisation of the Central Mental Hospital to accommodate approximately 300 transfers from prison to inpatient psychiatric care.
- There is an urgent need for the implementation of mental health legislation that would facilitate the diversion of mentally disordered individuals from the criminal justice system to treatment in community psychiatric services. Existing (civil) mental health legislation and case law could be used more consistently.

- There is an urgent need for more secure psychiatric beds on a national level. The lack of provision of low secure units and under provision of community hostel beds in many (areas) should be addressed. (p. 113)

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Recommendations of A Vision for Change

Given the findings and recommendations of the Kennedy Report, and indeed of previous studies, including the Review Group on the Prison Health Services, what is the approach being proposed by A Vision for Change, the Report of the Expert Group on Mental Health Policy? At the time of publication in January 2006, the Government stated that it had accepted the Report as providing a comprehensive policy framework for the development of mental health services over the next seven to ten years.

In light of the guiding principle that prisoners with mental illness should have equivalence of treatment to that available to the general population, the recommendations on forensic health services in A Vision for Change need to be viewed in the context of the broader recommendations of the Report regarding a new model for mental health services for the population as a whole. The proposed new structure will consist of outpatient clinics, community mental health centres, day hospitals, crisis houses (used for crisis intervention and for acute respite purposes, both of which are envisaged as of being of brief duration), and acute inpatient units (based in general hospitals). The Report says that 'difficult to manage behaviours' (DMBs) can pose the most serious challenge to services and represent a serious risk to the service user and others. It is proposed to deal with acute DMBs by including a close observation unit of six beds in each fifty-bed acute psychiatric unit. Those with enduring illness DMB will be treated in thirty-bed intensive care rehabilitation units that will be located in each of the four Health Service Executive regions. It is stressed that the movement and transfer arrangements between the acute unit, close observation, intensive care rehabilitation units and community-based facilities must be smooth and flow easily. (p. 101) It is clear from this proposed structure, and other broad recommendation of the Report, that the Expert Group envisages that the main focus of policy in the future should be on optimum use of outpatient services and that where inpatient care is required this should be provided in small-scale units, with specialised services to meet particular needs, and that it should be used for the shortest duration possible.

Forensic mental health services

A Vision for Change recommends that forensic mental health services should be "expanded and reconfigured". It proposes that in addition to the existing five multi-disciplinary consultant-led teams based in the Central Mental Hospital, there should be four multi-disciplinary community-based forensic mental health teams, one based in each Health Service Executive area.

The reorganised system should incorporate diversion schemes, so as to minimise the number of people with mental illness coming into the criminal justice system. The Report refers in particular to the need for the forensic health service to develop strong links with An Garda Siochana, as an agency likely to come into contact with people who have mental health difficulties. In this context, it is recommended that, in each Garda Division, a senior Garda should be trained to act as a "liaison mental health officer". The Report also draws attention to the need for legislative change to enable court-based diversion programmes.

A Vision for Change says that all forensic mental health teams should provide services for people with co-morbid substance misuse and mental disorder. It recommends the establishment of a specialised residential unit for intellectually disabled persons who come into the criminal justice system and who have mental health problems. Likewise, it recommends a small residential unit for children and young people who are in detention centres and, in addition, specialised community-based mental health services for young people who come into conflict with the law but are not detained.
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Prison mental health services
The Report emphasises that mental health services in prison should be "person centred" and , "recovery oriented" and based on integrated care plans. Mental health services need to be "interwoven" with social work, educational, psychological and addiction services, if the complex social and health disadvantages experienced by so many prisoners are to be addressed.

The Report states as an key principle:

> *Every person with serious mental health problems coming into contact with the forensic system should be accorded the right of mental care in the non-forensic mental health services unless there are cogent and legal reasons why this should not be done.*

Clearly, an area where this principle will be particularly tested is in the provision of inpatient care. There is widespread agreement that increased capacity to meet the inpatient care needs of prisoners is required. The waiting lists for admission to the Central Mental Hospital are indicative of the current shortfall. If additional inpatient services are to be provided in keeping with the principle advocated by the Expert Group, then how will the long-standing policy of not requiring local mental health services to provide for the inpatient needs of prisoners be reversed?

A Vision for Change recommends that the Central Mental Hospital be "upgraded and improved", which is welcome. It also recommends that the capacity of the CMH should be increased (p. 140). It is not immediately clear the extent of the increase in capacity that is intended. If it is significant, then it needs to be asked whether this will not inevitably lead to the Central Mental Hospital continuing to be the sole provider of inpatient services for prisoners, with local mental health services continuing to exempt themselves from providing any inpatient care for prisoners, no matter how low a security risk they might pose.

Such a situation would clearly be in contradiction of the overall thrust of the Report's recommendations and of the principle that mental health care should be provided in the 'least restrictive environment'.

Solitary confinement and padded cells
The Expert Group acknowledges use of what it calls "special cell confinement", particularly in Cloverhill Prison. It says that this arises because of the "physical
and human resource limitations at the CMH (Central Mental Hospital):" which mean that "many seriously ill prisoners cannot be immediately transferred there for treatment". (p. 138)

However, it is disappointing that the Report\'s recommendations in respect of forensic mental health services do not make specific reference to ending the use of isolation cells for dealing with acute or crisis episodes experienced by prisoners with mental health problems. (pp.142-143)

Post-Release Services: Avoiding \' The Revolving Door\'

All too often, prisoners who have a mental disorder are released with little or no discharge planning.15 No agency has the duty to link them to needed treatment, housing and other services.

The consequence of a failure to ensure continuity of care is illustrated in the story, reported to us by an agency working with homeless people, of one young man who had spent time in prison and while there was treated for psychiatric illness. No arrangements for post-release psychiatric care were put in place; when the young man came out of prison his medical card had expired, with the result that he was not able to go to a GP to get a renewal of his prescription. There quickly followed a downward spiralling of his situation and a mere few months after his release from prison he was found dead.

The fate of too many offenders with a mental illness has been summed up by one commentator as follows:

> *Mentally ill patients with a criminal record are often placed in a lose-lose situation. While incarcerated, their condition tends to worsen. And upon release, they are often unable to access available community treatment because of providers\' reluctance to serve themThe results are painfully clear: many defendants with mental illness churn through the criminal justice system again and again, going through a \'revolving door\' from street to court to cell and back again without ever receiving the support and structure they need.16*

The implementation of the comprehensive range of mental health services envisaged in A Vision for Change, and the improved liaison and more effective coordination between forensic and other mental health services called for in the Report, would in general increase the possibility that the post-release needs of mentally ill former prisoners would be met. None the less, it would have been useful if the Report had more explicitly explored this problem and made specific recommendations for addressing it.

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Conclusion

The findings of the first comprehensive study into the incidence of mental illness among Irish prisoners present a picture of worrying rates of mental illness and substance abuse. The study’s results obviously pose significant challenges to the Irish Prison Service which has overall responsibility for the management of our prisons. Arguably, they pose even greater challenges to other elements of the criminal justice system and to the mental health and general care services for the community as a whole. The study’s findings will reinforce the view of many that Irish society all too often pushes onto the prison system the task of dealing with people who have been repeatedly failed by other systems.

The recommendations put forward by both the Kennedy report and the Expert Group on the Mental Health Services show how mental health services in prisons can be improved and how the incidence

of people with mental illness coming into prison in the first place could be reduced.

Irish society finds itself well-placed to radically transform mental health services, given its unprecedented levels of wealth. It has been offered A Vision for Change: does it have the will for change?

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2. United Nations Office of the High Commissioner for Human Rights, Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, adopted by General Assembly Resolution 46/119 of 17 December 1991. The Principles are frequently referred to as the MI Principles.
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9. Report of the Group to Review the Structure and Organisation of Prison Health Care Services (2001), Dublin: Department of Justice, Equality and Law Reform, p. 39.
10. Department of Health (1995) White Paper: A New Mental Health Act, Dublin: Stationery Office, par. 7.3 - 7.4, pp. 66-67.
11. Ibid., par. 7.11, p. 69.
12. Dail Debates, 13 May 2003.
13. V. Bresnihan (2001) Out of Mind -Out of Sight: The Solitary Confinement of Mentally Ill Prisoners, Dublin: Irish Penal Reform Trust.
14. Council of Europe (2003) Report to the Irish Government on the Visit to Ireland Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 28 May 2002, Strasbourg: Council of Europe, 18 September 2003 (CPT/Inf (2003)36[EN], par. 128.
15. In his first Report, the Inspector of Prisons was critical of the way in which prisoners on completion of their sentences were released without adequate support or access to services (see First Annual Report of the Inspector of Prisons and Places of Detention for the Year 2002-2003 (2003), Dublin, pp. 52-55).
16. D. Denckla and G. Berman (2001) Rethinking the Revolving Door: A Look at Mental Illness in the Courts, New York: Center for Court Innovation, p. 4.

Many thanks to Dr Harry Kennedy for making available to me the report, Mental Illness in Irish Prisoners: Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners, which is soon to be published.

Doing Business and Doing Good: The Role of Business Ethics

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Down the ages, some currents of thought have seen business as incapable of being honourable, and barely able to be honest, since honest business will always be at a disadvantage in competition with dishonest business. On this view, neither business, banking, investment, profit-making, nor entrepreneurial initiative promote the good of individuals or society. Business ethics is doomed to be at best ineffectual, at worst a sham.

A variant of that view is that business is not so much immoral as amoral. Like war, business involves competition and struggle aimed at the elimination of competitors, alliances and hostile takeovers, layoffs and \'dumping\' in pursuit of profit. War and business are \'worlds\' whose being is constituted by conflict instead of peace, gain rather than justice.1 Here, following moral rules would lead to defeat, and hence would be irrational. There can be no place for business ethics.

Justice and Adam Smith

The most important critic of that amoralism is none other than Adam Smith in The Wealth of Nations (1776). Smith is often thought of as one whose praise of free trade explicitly endorsed unrestricted freedom for the economic agent and whose economic theory had no time for ethics. Only through encouraging selfishness and greed, he allegedly argued, could national wealth be increased.

This is a caricature of Smith\'s views.2 He supported free trade, but he did not praise selfishness nor hold that the benefits of free trade could be attained without a proper legal framework to protect individual rights. As a teacher of moral philosophy, whose earlier books were The Theory of Moral Sentiments (1759) and the unpublished Lectures on Jurisprudence, his free market economics were grounded in ethics and law.

Smith supports morality because individual businesses and the market economy can\'t work without morality and the laws to which morality gives rise. Justice, the protection of personal and property rights, and the rule of law are indispensable to the proper functioning of a modern economy.3 His critique of mercantilism and the economic structures of his day was as much a moral as an economic one. His modern devotees should take on board the underlying moral principles he insisted on as necessary, both for social justice and for long-term business success.4

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What Ethics is About

Contrary to popular impression, ethics isn\'t just about rules, a list of \'dos\' and \'don\'ts\' about how to behave. It is also about goals (what are we trying to do, and why is it worthwhile) and about

character (what sort of people do we want business people to be). To use the traditional ethical terms: it\'s about **norms** (what is \'right\' to do), **values** (what is \'good\' to seek), and **virtues** (the character traits of the excellent or admirable person).

The good is what we want, i.e. whatever it is we take to be worth having. It\'s about values and goals, whether individual or communal, rational or irrational, selfish or altruistic. The good in business ethics has to do with meeting human economic needs efficiently and fairly, promoting the economic good of society, and contributing to the general well-being of those directly involved in business. The company\'s vision statement is where its **values** and **goals** are usually articulated.

The right has to do with **actions**, i.e. what one ought to do (commands), may do (permissions), and ought not do (prohibitions) in pursuit of goals (the good). In business ethics, the right is expressed and promoted in laws, company rules and codes of conduct, and other mechanisms for enforcing law and disciplinary procedures.

It is also reflected in general awareness of the company\'s obligations to shareholders and consumers, and the individual\'s awareness of his or her obligations as an employee or member of the corporation.

Most business ethics writing concerns the right, since it is focused on internal issues arising from the day-to-day running of the business, with what managers and executives ought do, and how ethical dilemmas might be resolved. Unfortunately, this has led many people to think of business ethics only in those terms, with the result that much of its relevance disappears from sight. We cannot ultimately say how business people (for example, investors, CEOs, middle managers) ought to behave (the \'right\'), except in a larger context of what the purpose of it all is (the \'good\'). No persuasive moral rules can be laid down unless people see what it\'s all in aid of.

{mospagebreak}**Business, Finance, The Market: Instruments for Greater Goods**

There are two points to make here. First, who gets to say what the good of business is?

It is curious that even educated and experienced multinational CEOs have difficulty in saying what the point of business is, in ways that show it as promoting human well-being. Recently, the world Managing Director of McKinsey and Co., criticising Corporate Social Responsibility programmmes for being defensive and apologetic about business, wrote:

*This defensiveness starts the argument on the wrong foot, certainly as far as business leaders should be concerned. Big business provides huge and critical contributions to modern society. These are insufficiently articulated, acknowledged or understood. Among these are productivity gains, innovation and research, employment, large-scale investments, human-capital development and organisation. All of these are, and will be, essential for future national and global economic welfare.*5

He is correct in saying that the contribution of business is insufficiently understood, since his own statement reflects just that. For apart from employment, the \'huge and critical contributions to modern society\' he refers to - productivity gains, innovation, investment, human-capital development - are internal to business. They are good, of course; but specifying them doesn\'t take us beyond business to the wider human and social good. Nobody would identify happiness with

wealth, or human well-being with economic expansion. Even less could one identify human well-being with investment or productivity gains. The latter are means to the end of economic well-being, which in turn is a means to general human well-being and happiness. The comment quoted reflects an inability on the part of business to see beyond itself, so that when asked why it should be supported it is incapable of giving an answer that specifies human welfare and value in non-monetary, non-business terms.

Accordingly, his proposal that the relationship between big business and society be seen as a kind of \'social contract\', analogous to the classic notion of the social contract between the state and the people, should be rejected. In social contract theory, the role of the state was to promote the well-being and the good of the people. But business is not capable of doing that, precisely because it often can\'t see beyond itself, and so the idea that it could or should play a role analogous to that of the state should be resisted.6

To put the point in a way that might resonate with business people: it is the customer or consumer, not the CEO, who is best entitled to specify the good that business should serve.

Second, and following from the previous point, a little reflection shows that questions such as: What is the point or purpose of business? Why should we let private enterprise provide the goods? are ultimately not about economics, but about ethics. The good of the market includes a range of goods: material well-being, resources for better education, health-care, shelter, welfare, and general quality of human life.

An economist could not speak of those goods without using ethical notions. She would be speaking of market preferences, consumer desires, material goods, and efficient service in provision of those goods. \'Preferences\', \'desires\', and \'goods\' are primarily ethical terms. When related to them, the nouns \'service\' and \'provision\' acquire indirect ethical connotations.7 In principle, consumer preference-satisfaction, efficient service, and quality goods provision are instrumental goods in the service of human well-being.8

{mospagebreak}**The Common Good**

In light of the previous section, every business should take its vision-statement seriously. The vision-statement represents its sense that its continued existence is not an end in itself, and that it is meant to serve the wider human good. A vision-statement is meant to be broad and general, yet not waffly and vague. If it generates a complacent sense in the company leadership that \'We\'re fine as we are\' then it is useless.

Two trends of thinking can block that ethical insight. First, moral relativism is common in the western world today. That can lead some senior business personnel to think that good and evil, right and wrong, exist only in the eye of the beholder, so that profit alone is all they need worry about.

Second, in a strong pro-business climate, influential people, both inside and outside the business world, start thinking of wider society as though it were a company writ large, so that the logic and

values of business are the ones wider society should follow. This means collapsing the notion of the common good into a narrow and shallow notion of the economic good.

An example is when the trustees or managers of a hospital or college adopt an ideology of running it along business lines, with business values overriding other values. It is ominous when educators and health-care specialists start speaking of \'customers\' (instead of \'students\' or \'patients\'), \'product\' (instead of \'education\' or \'health care\'), \'productivity\' and \'added value\' (instead of \'commitment\' and \'vocational dedication\'). Behind lies a utilitarian materialism that thinks the only genuine goods are monetary and material.

No reasonable person would deny that there are appropriate ways to adapt business expertise and insights. The inappropriate ways are marked by the assumption that non-business values ought never weigh against business values or financial considerations. On this distorted view, the world of business, commerce and enterprise is the repository of true wisdom, to which the rest of society should bow.

Such an imperialist stance always provokes an anti-business backlash eventually. A wave of business scandals typically produces what is called a \'legitimation crisis\' for capitalism, in which people turn against business and view it with hostility and suspicion. It would be naïve for business to imagine that the failure of socialism removes business\'s need for social legitimacy.9

Just as scientists must sometimes warn people against exaggerated ideas of what science can achieve, so too business people must not let the parallel exaggeration of treating society as if it were a business go to their heads. Business actually needs wider society not to capitulate to the logic of the market, for that would amount to society saying to business: \'Only you can decide what you exist for\'.10 And business isn\'t able to do that. Only a society that in some significant degree transcends or is independent of business and the market can value business and business people.

{mospagebreak}**Law: The Right**

Having said something about values, we now turn to norms. The most important norms are usually incorporated in civil law. The most basic element needed in keeping business honest is the rule of law: laws properly made, and impartially enforced. The \'dos\' and \'don\'ts\' of business ethics (i.e. the right) are largely expressed in law (international, national, and local).

When companies develop their own internal codes of conduct, they are often seeking to ensure more effective observance of the law or anticipating future legislation. If they want to avoid the reputation of being unprincipled \'fly-by-night\' enterprises, then they need moral principles and codes of conduct. While some principles are universal (for example, don\'t overcharge, don\'t exploit your workers), others may vary according to the nature of the business. Appropriate norms on how to behave cannot be specified except in the context of the company\'s policies and values as expressed (for example) in its vision-statement.

The public authority has a major role to play in keeping business honest. A business can regulate itself, to some extent. But if nothing compels its competitors to apply similar ethical rules, that business may founder. Long before that, the business will be under pressure to behave as its competitors do. In this context, it is the state\'s moral duty to make it possible for businesses to be

ethical. Public outrage at unethical business practices can be translated, by means of the democratic process, into appropriate legislation. A series of well-publicised business scandals is usually followed by a spate of new legal regulation - at least in the USA (for example, the Sarbanes-Oxley Act of 2002) whatever about Ireland.11 In recent decades, new legislation protecting workers\' rights, prohibiting businesses from damaging the environment, and generally mandating greater transparency have had a positive effect.
At the same time, the law can be a clumsy instrument. Sometimes business people complain, not without reason, that the legal regulations are too burdensome. The democratic state, reflecting public opinion, might well reply: \'The laws are there because you have shown you can\'t be trusted\'. Many businesspeople will cry that this is unfair. But I have had students in postgraduate management classes say to me that in their view (and presumably in their future career as managers) ethics is irrelevant and that the only thing that matters is not to be caught. I reply that this amounts to an admission that they (the students) are not to be trusted and that they will cut corners if they can get away with it. Such an attitude virtually compels the State to regulate them heavily.

On that scenario, everybody loses. Trust matters enormously: trust between businesses, trust between employers and employees, trust between businesses and society. The curious thing about the student managers is that they don\'t seem to see that. They are probably quite ethical themselves (since it was actually ethical of them to be honest as to their views!), but they often think that ethics conveys no real knowledge since people often don\'t behave in line with ethical norms. This reflects a narrowness of education among MBAs and managers: they think that the only serious disciplines are descriptive, so ethics can be dismissed since it is a normative, not a descriptive, discipline. They forget that law too is a normative discipline, where criminal laws are made or strengthened precisely because people are not behaving as they ought.

In short, just as businesses cannot work with each other without a context of trust, so society needs to be able to trust business. Ethics is indispensable, and law is needed to back it up. Here we come back to Adam Smith\'s point (and Catholic social thought\'s conviction) that the good represented and pursued by industry and trade cannot be realised except in a society governed by the rule of law. The notion of the rule of law is complex. Among other things, it includes the idea of the psychological internalisation of the value of law in people\'s minds.
{mospagebreak}**Character and Excellence**
Compliance with law does not suffice to make one just or ethical. We need business people to be more than just law-abiding, particularly as they ascend the corporate ladder. The law cannot cover everything, and society (and business itself) needs to have business leaders whose moral compass is sensitive and well-attuned. If board members, CEOs and managers are not economically prudent and financially responsible, they will be unreliable and the market will punish them. Similarly, if they are not good people, they will be unreliable as regards acting rightly, particularly in dilemma cases or where cutting ethical corners might yield short-term gain. Adam Smith is uncompromising on that point: no ethics manual, rulebook or code of conduct will remedy character deficiency.
How can we develop good people?

There are several strands to the answer. First, the foundations of ethical character are laid in childhood. One cannot be an ethical anything - tinker, tailor, CEO or product developer - unless one has been raised well by one\'s parents or by other significant adults. Being a good person is specified by the virtues: honesty, temperance, reasonableness, fairness, prudence, perseverance,

courage, and respect for others. If you are not an ethical person before you join Widgets and Gadgets Ltd or Flexible Accounting Inc, it is unlikely that you will become one on the job.

Second, the different moral and religious communities within society must combat the \'de-moralisation\' of society and of their own members, resulting from a relativist notion of pluralism. Found in many quarters, such a notion undermines any claim that there is a common good and inculcates the idea that there are no objective moral truths or at least none that are knowable. That radically undermines business ethics.

Third, society must support and honour the ethical business person, entrepreneur or financier. As Aristotle said: the brave are found where bravery is honoured.12 If the business world seems to lack clear moral compass, it may be because wider society and its religious and moral communities have failed to develop a picture of the admirable business person, i.e. an account of the virtues appropriate to the investor, manager, employer, or banker. This includes not just the general virtues such as honesty or justice, but also those that are role-specific (for example, prudence for the investor, willingness to take risks for the entrepreneur).

Conclusion

We have looked at the three zones of ethical interest to any business: (1) What are our standards of behaviour (for treating workers, customers, etc)? Are we compliant with the law as a minimum? Do we try for best practice as well? (2) Do we have a vision of how we contribute to the common good, and do we take it seriously? (3) What sort of people are we hiring, and do they become better or worse as a result of working for us?

Those are ethical questions. The wise business person knows that they are also questions about business success, economic efficiency, and public relations. Ethics is so tied up with them that no business can do without it.

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2 . See, for example, Patricia H. Werhane (1991) Adam Smith and his Legacy for Modern Capitalism, Oxford: Oxford University Press.

3. For a fascinating account of how absence of legally established property and enterprise rights in developing countries plays a crucial role in keeping them poor, see Hernando de Soto (2000) The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else, London: Bantam Press, Random House.

4. On the question of whether capitalism is the right model to adopt, recent Catholic social thought draws a distinction: "If by \'capitalism\' is meant an economic system which recognizes the fundamental and positive role of business, the market, private property and the resulting responsibility for the means of production, as well as free human creativity in the economic sector, then the answer is certainly in the affirmative. But if by \'capitalism\' is meant a system in which freedom in the economic sector is not circumscribed within a strong juridical framework which places it at the service of human freedom in its totality, and which sees it as [only] a particular aspect of that freedom, then the reply is certainly negative." (John Paul II, Centesimus Annus, 1991,

n. 42) Adam Smith would have agreed.

5. Ian Davis, "The Biggest Contract", The Economist, 26 May 2005.

6. On this point, along with Adam Smith, see also a thoughtful piece by Michael Skapinker, "Fair Shares?", Financial Times Magazine, 11 June 2005.

7. For impressive demonstration of the relationship between ethics and economics, see Daniel M. Hausman and Michael S. McPherson (1993) Economic Analysis and Moral Philosophy, Cambridge: Cambridge University Press (Cambridge Surveys of Economic Literature).

8. See Martin Wolf (2004) Why Globalization Works, New Haven, Conn.: Yale University Press.

9. See Richard C. Warren (1999) "Company Legitimacy in the New Millennium", Business Ethics: A European Review, 8: 214-224. See also "Business Ethics: Doing Well by Doing Good", The Economist, 22 April, 2000; "A Guide to Corporate Scandals", The Economist, 11 July 2002; "Two-faced Capitalism", The Economist, 22 January 2004.

10. For discussion of this point see Elizabeth Anderson (1993) Value in Ethics and Economics, Cambridge MA: Harvard University Press.

11. In some cases, indictment alone, without any conviction, can be sufficient to destroy a high-profile business. See "Over Before it Started", The New York Times, 14 June 2005, an op ed piece by Joseph A. Grundfest, Commissioner of the Securities and Exchange Com-mission from 1985 to 1990, on the fact that the quashing of a conviction against Arthur Andersen for obstruction of justice in the Enron case could not resurrect the accountancy giant.

12. In Swift\'s Gulliver\'s Travels, Gulliver tells the King of Brobdingnag that European monarchs honour generals and admirals. Shocked to hear that those most successful at killing are held up to be admired, the king replies that the type of man he would honour would be one who could make two blades of grass grow where one grew before, a benefactor to society rather than an accomplished killer.