

Editorial

‘Women should be imprisoned only if the offences they have committed are of such seriousness that the protection of the public, or the interests of justice, require that they receive a custodial sentence’; ‘where women need to be imprisoned, they should be detained in small, geographically-dispersed, multi-functional custodial units, not large prisons’; ‘both custodial and non-custodial penalties should try to address the complex social and personal problems that generally underlie women’s offending’; ‘women’s prisons should never be located on the same sites as prisons for men’.

These were some of the key conclusions of a review of the imprisonment of women in England and Wales conducted in 2006–2007 by Baroness Jean Corston, which she highlighted in an address to a seminar held by the Jesuit Centre for Faith and Justice on 22 May 2008. This issue of *Working Notes* opens with an article based on that address. The seminar, ‘Women in Prison: the Need for a Critical Review’, was held against the background of significant developments in policy in Ireland in relation to the imprisonment of women. The overall prison capacity for women is to be doubled – which inevitably means that imprisonment will *not* be reserved for the most serious offences. The main women’s prison, the Dóchas Centre in Dublin, is to be moved from its city centre location, which is close to services and is convenient for families wishing to visit prisoners, to the Thornton Hall site, which is ten kilometres from the city centre and will be much less accessible. Both the planned new Dóchas Centre, and the proposed new women’s prison at Kilworth, Co. Cork, will be located on the same sites as prisons for men.

These major decisions, which will determine the shape of penal policy in relation to women for many years to come, and which are so obviously at variance with the kind of approach recommended by Corston, were made in the absence of any independent review of the use of imprisonment in response to the crimes committed by women. The plans, and indeed those in relation to the development of new prisons for men, may not reflect independent analysis or the outcome of

informed public debate but they do reflect the strongly punitive emphasis in penal policy in Ireland. In two other articles in this issue of *Working Notes*, Brian Grogan SJ and Gerry O’Hanlon SJ call for a change in approach. Both writers explore how the Christian vision of justice points us towards the possibility of developing a very different kind of criminal justice system. Brian Grogan invites us to consider the implications of ‘the outrageous emphasis on forgiveness’ in the New Testament, and he and Gerry O’Hanlon look at some of the issues involved in creating a justice system less preoccupied with the ‘retributive aspects of punishment’ and more with rehabilitation, restoration and reintegration. Such a system would certainly find less use for imprisonment and more for alternative sanctions.

Gerry O’Hanlon highlights too the importance of the criminal justice system being capable of responding ‘sensitively and effectively’ to the needs of victims of crime, and of society as a whole recognising and being prepared to address the social injustices that lie behind much of the crime that is committed in our society.

The question of policy falling short of the challenge is a central theme also in the final article of this issue, which focuses on the question of building sustainable communities. Peter McVerry SJ shows how some of the key features of Irish housing policy over the past decade – the entrenchment of social segregation, the promotion of the view that housing is an investment, rather than ‘a means of providing shelter, security and a sense of place’, the failure to provide an adequate supply of social housing – have greatly damaged the prospects of creating and maintaining sustainable communities.

In the conclusion of his article, Gerry O’Hanlon asks do we care enough to challenge the drift that frequently occurs in public policy? This drift, he notes, is apparent in many areas of policy, and frequently results in significant proposals seeming to emerge out of the blue – ‘with resultant adversarial recrimination and defensiveness’. We are, he suggests, capable of better.

Building Sustainable Communities – The Role of Housing Policy

Peter McVerry SJ

The Barriers to Community

Building sustainable communities is extremely difficult in Ireland today. In many urban areas, at least, the sense of community has almost disappeared.

There are several reasons why this is so:

First, increased mobility means that many people expect to move from one community to another and so may have fewer bonds with the community in which they currently live. People move job, and therefore move home, much more often than their parents did. Many others see a first home as simply 'getting a foot on the property ladder' and when they are able to purchase a bigger house, or a house nearer to their work, they will uproot themselves and move.

Second, in today's society a person's 'community' may be very scattered, with their most important friendships and links based on common interests or arising from workplace contacts, rather than proximity to the people in their neighbourhood. Increased prosperity means that more people have their own cars and so can more easily maintain contact with this scattered 'community'.

Third, the economic system of capitalism, in which we have so successfully embedded ourselves, persuades us to use our purchasing power to make ourselves as self-sufficient and independent of others as possible. Dependence on others, capitalism suggests, leaves you very vulnerable, as people are unreliable and changeable. The only one you can depend on is yourself. Therefore, root your security in your property and assets and not in the whims and moods of others.

The 'commodification of housing', which is a consequence of the capitalist system, has contributed in a significant way to the loss of community. By commodification, I mean the process by which a house has increasingly come to be valued as an asset – an investment which sooner or later will yield a handsome return – rather than as a means of providing shelter, security and a sense of place.¹

If, as we are pressured by the economic system to believe, security and fulfilment are to be found in surrounding yourself with material goods, then to be community-minded becomes something optional, an add-on to life, for those who are that way inclined! A bit like going to church, in fact.

Paradoxically, however, capitalism, in order to thrive, must persuade us to find our security in the purchase of goods and services and, at the same time, persuade us to be *dissatisfied* with what we have purchased, so that we will go out and purchase again – a never-ending merry-go-round. It is not surprising that in the past the sense of community was often strongest in poor areas, as people in such areas had little but one another.

Building a strong sense of community is therefore counter-cultural in the Ireland of today. People are being pushed in the direction of individualism, isolation and aloneness, a direction diametrically opposed to the building of community.

I believe that the loss of community has led to a loss of meaning in the lives of many, who now must search for meaning in the accumulation of assets and material goods and who, not surprisingly, find only emptiness and disillusionment.

Housing policy, then, is facing an uphill battle in trying to create integrated, sustainable communities; the task of housing officials is now far more difficult than at any time in the past. But, in my view, unless we can recover a sense of community, people may grow wealthier but more unfulfilled; have more material goods but less satisfaction; have stronger locks on their doors and more expensive burglar alarms but feel more insecure.

The task of building community is therefore, in my view, the most important challenge facing Irish society today. Meeting that challenge will require the State to alter many of its existing policies in the areas of housing and planning. And it will require also that the State and the churches act together to counter the negative aspects of the current direction in which Irish society is headed.

The Injustice of Segregation

Housing policy in Ireland has contributed, I believe, to one of the most fundamental injustices in our society – segregated housing. The segregation of housing into poorer local authority estates and wealthier private estates, often far removed from each another, affects many of the other fundamental structures that determine the quality of life of our citizens.

Poorer estates, with a high proportion of low-income families, often have poorer schools. These schools cannot benefit from fund-raising drives in the local area and may be unable to retain good teachers if there is a high proportion of ‘difficult’ children or children who may be under-performing. Schools therefore may reinforce the already disadvantaged status of those pupils who live in homes where parents struggle with poverty and have little motivation to push their children to succeed within the educational system. Thus, in some poorer neighbourhoods, some children fail to transfer to second-level education; many leave primary school unable to read and write appropriately for their age; and many leave school before Junior Certificate. In some schools, absentee levels on any one day can be as high as 30 per cent.

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For far too many young people, growing up in a disadvantaged area leads to educational underperformance, which reduces their employment prospects, and in turn their options for housing and the educational opportunities for their children, and so on in a vicious cycle.

So while I would consider education to be the most *important* structure in society – since educational achievement is such a determinant of one’s future life prospects – housing is the most *fundamental* structure, as it has a huge influence on educational and indeed all other structures.

In my view, the most important policy decision in the past twenty years was the requirement under Section V of the Planning and Development Act 2000 that developers allocate 20 per cent of their residential output to social and affordable housing. Over time, this would have provided sufficient social housing to meet the needs of those on the local authority housing waiting lists but, equally importantly, it would have begun to provide socially integrated housing in our newer estates.

Integrated housing in some of our older estates has been happening for several years, but it has always occurred through middle class households moving into a previously poor area which has suddenly become attractive to live in – because, for example, it is located in or near the city centre, close to jobs and city amenities. Integrated housing where poorer households move into previously middle-class housing estates is, of course, still a no-go. Section V of the Planning Act would have had that effect – which, of course, is why it was emasculated.

The failure to provide socially integrated housing estates goes back to the foundation of the State and even further. More desirable locations, such as those along the seafront, are bought by developers to provide private housing estates and make substantial profits, while less desirable locations are bought by local authorities at lower cost, thus providing social housing at reduced economic cost – but at a substantial social cost. The division of housing into socially isolated segments has been intensified as housing has become increasingly commodified.

The Commodification of Housing

While a house is a means of meeting a basic human need, it is also a very desirable asset. There is, then, for the State a conflict of values: the value of ensuring that each household has suitable accommodation at a price it can afford, and the value of ensuring that people can have legitimate access to ownership of private property in the form of a house.

Right up until 1987, the balance between housing as a social need and housing as a private asset was fairly well maintained – new social housing output in the 1970s and 1980s was between 20 and 33 per cent of all housing output; indeed, from 1922 up to the mid-1960s, 50 per cent of all housing output was social housing. In 1987, the balance began to shift: that year only 16 per cent of

housing output was social housing. Two years later, it dropped to 4 per cent. Subsequently, right through the Celtic Tiger years, it remained at a low level compared to earlier decades in the history of the State: in 1993, it was 9.8 per cent; in 1999, 7.5 per cent; 2004, 6.6 per cent. In 2007, new social housing provision reached 11 per cent of total housing output for the year, reflecting both a significant increase in local authority and voluntary sector provision and a context in which overall housing output had declined by 16 per cent from 2006 figure.²

In effect, over the past two decades, housing as a social good has declined in favour of housing as a commodity, to be bought and sold like stocks and shares. Of course, as housing becomes more and more a commodity, rather than a social good, those who purchase this valuable asset certainly do not want its value diminished by having local authority tenants living beside them.



Barriers to community?

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The overall decline in social housing output, particularly during the Celtic Tiger years, reflects, I believe, a very conscious decision by government to withdraw from the provision of social housing and to transfer the task of meeting social housing needs to the private sector, massively subsidising it in this role. The use of the private sector need not necessarily be a bad thing, if government remains in the driving seat, as was intended by Section V of the Planning and Development Act. The problem arises when government becomes *dependent* on the private sector, which then takes over the driving, and/or when the subsidisation of the private sector is at a level that represents poor value for taxpayers.

Public Private Partnerships

The hazards of resorting to private sector

providers to supply social housing became all too evident in the collapse, during May 2008, of the regeneration projects in St. Michael's Estate and elsewhere, as a result of the withdrawal of the private developer from the Public Private Partnership (PPP) that was to carry out the regeneration.

As a method of providing roads and transport infrastructure, the PPP model may be a good thing – although many debate its value even there – but the use of PPPs for the provision of social needs, such as housing, health and, increasingly, education, reflects an ideology that wishes to see government reducing its responsibility for social goods, with more and more dependence on market forces as the means of meeting even social needs.

I can understand some of the rationale behind PPPs for housing regeneration – the desire not to re-create the one-class ghettos that previous housing policy created, by offering incentives to the private sector to provide socially mixed housing. At first sight, the arrangement seems like a good idea: the local authority provides the land, which it already owns, to the private developer and in return gets several hundred social housing units – and this is achieved without the cash-starved local authority having to provide any direct financial input. Meanwhile, the private developer gets the profit from several hundred private housing units built alongside the local authority housing. A socially integrated housing estate is thereby built, with no apparent cost to the local authority and with the developer making a handsome profit – an apparently win-win situation.

However, as P.J. Drudy and Michael Punch show in their book, *Out of Reach*, the value of the land donated to the developer far exceeds the value of the social housing provided, thus transferring a very valuable asset, owned by the State, into private hands. In the case of St. Michael's Estate, the value of the land handed over to the developer was estimated at over €100 million, while the value of the social housing which the local authority was to receive in return was about €14 million.

Furthermore, the number of private houses to be built under PPPs far exceeds the number of social housing units and no-one has control over who will buy the private housing, or what commitment they will have to the area or to the community.³ In addition, the social housing being built is intended

to be offered to sitting tenants for purchase at a substantial discount, so over time the number of social housing units may actually drop to very few or none.

The whole scheme is therefore a recipe for the gentrification of social housing communities. No one has control of the development of the community that results from this process. The regeneration of Ballymun, for all its problems, is also creating a socially mixed community, but without the same dependence on the private sector as the regenerations using PPPs.

Subsidised Private Rented Sector

Further evidence of government moving away from accepting responsibility for the provision of appropriate and secure accommodation for low income households is provided by the increased reliance on the private rented sector for housing lower-income households. It has been estimated that over a third of all households receiving social housing assistance from the State are in the private rented sector, being supported through the Rent Supplement Scheme. The majority of these households have long-term social housing needs.⁴

The Rental Accommodation Scheme (RAS) introduced in 2005 may bring about some improvements in standards and provide greater security for tenants but there are grounds for concern that the Scheme represents another instance of the State institutionalising its dependence on the private sector to meet social housing needs.⁵

Government Policy

The commodification of housing has been quite consciously promoted by the policies of government over the past eleven years. In particular, the failure of the Fianna Fáil and Progressive Democrat administrations to implement key recommendations of the government-commissioned Bacon Reports meant that the process of commodification went unrestrained.

Two of these recommendations were the abolition of mortgage interest relief on houses purchased by investors or as second homes, and an ‘anti-speculation property tax’ – an annual tax on dwellings which were not primary residences and were bought for speculative purposes.⁶ Neither recommendation was implemented. Another recommendation of the first Bacon Report – that

Section 23 tax relief on investment residential property be abolished – was implemented for a short period. However, pressure from property interests led to the re-introduction of this tax relief.⁷

The commodification of housing has been quite consciously promoted by the policies of government

As well as the disregarding of these proposals in the Bacon reports, there has been a failure to act on the key finding of the report on private property issued by the All-Party Oireachtas Committee on the Constitution in April 2004.⁸ The Committee unanimously concluded that enabling local authorities to acquire land for building purposes at existing use value plus 25 per cent, as recommended by the report of the Kenny Committee 1973, would *not* be contrary to the Constitution’s provisions on the right to private property.⁹ The possibility that granting such a right to local authorities would be unconstitutional had long been put forward as a reason for not acting on the Kenny recommendation.

Despite the fact that the All-Party Oireachtas Committee undertook its examination of the issue of private property in the Constitution at the specific request of the then Taoiseach, Bertie Ahern TD, and despite the Government welcoming the report, no commitment to act on its recommendations has been made in the four years that have elapsed since the report’s publication.

Throughout the period of rising house prices, therefore, the continued failure of government to introduce measures to control prices, and the encouragement to investors to put their money into property, allowed the commodification of housing to gain the ascendancy and our understanding of housing as a basic need and human right to be relegated to a minor role.

The increased commodification of housing goes hand in hand with an increased individualism in our society. As a house becomes an asset to be purchased by an individual person or household,

then the provision of housing becomes a matter for individual choice, and the development of community takes a back seat – or it also is left to market forces.

Social Housing Policies

One of the biggest obstacles to the planning of integrated communities is the shortage of social housing. This reduces or almost eliminates the flexibility that is essential for planning for such communities.

In this situation of scarcity, individual households are prioritised on the basis of need, and are allocated their individual house according to the 'points' they have been given in the assessment procedure. This process has the advantage of being fair to those on the waiting lists, and transparent in the way allocations are made, but it proceeds from the base that providing social housing is a matter of assigning individual houses to individual households, within a situation of limited availability, with little or no consideration of the social or community dimension of housing allocations.

In effect, the pressure arising from the need to house those on the waiting lists, who are often living in very unacceptable conditions, means that planning sometimes must give way to crisis management.

A significant factor in creating the shortage of social housing is the long-standing policy of selling local authority houses to sitting tenants, with no requirement on local authorities to ensure that their stock of social housing is not thereby permanently depleted.

The rationale for the policy of selling-off local authority housing is clear: people will look after their house better, and take more pride in it, if they own it, rather than renting it. Tenant purchase means a reduction in the cost of housing maintenance to the local authority – a cost that is significant. Here, again, is an apparently win-win situation.

Again, however, the social costs of this policy are very high. If new social housing is provided to replace that which has been sold off, this will be through new construction or through purchase in the current market, and so it will be at far higher cost relative to the stock sold. Furthermore, some of those who buy out their local authority home

may subsequently sell this house, and move out of the community; almost by definition, they are the more able, the more motivated and more employable people in the community.

Over the years, large numbers of local authority houses have been sold to sitting tenants at a substantial discount from the market price. During the boom in housing prices, some owners who had acquired their homes with the benefit of this subsidy were able to gain further as they sold them on at a handsome profit. This phenomenon reflected and intensified the process of commodification of housing in Ireland.

Necessary Conditions for Building Community

If we are to create sustainable, integrated communities, several prior conditions need to be met:

Firstly, the price of housing must be controlled. We must return to a concept of housing as a basic need, not as an investment on which people can make a quick return. It may be already too late: like climate change, there comes a point at which the process becomes irreversible, when the damage has already been done. The housing market is already going through a re-adjustment which has the potential to seriously damage the financial health of many previously comfortably-off households. But as long as a substantial proportion of housing continues to be bought by investors or those wanting a home-away-from-home, supported in their objective by housing policy expressed in the form of tax breaks, there is little anyone can do to create and sustain a sense of community.

Secondly, there is required a huge increase in the provision of social housing. While social housing output has risen substantially in the past twelve months, it is still well short of the level recommended by the NESC report, which in itself was a compromise figure.¹⁰

Thirdly, the policy of selling local authority housing stock must be re-examined. As it stands, this policy means either a reduction in the number of social housing units available for low-income families or the replacement of the stock at a substantially higher cost to the taxpayer. At a minimum, there needs to be a requirement that sales of local authority houses will not result in a permanent reduction in the stock of social housing

and there should be greater equity in the level of subsidisation provided for tenants who purchase their local authority homes. In its 2004 report on housing, NESC recommended ‘the application of a level of discount and claw-back provisions which remove windfall gains from the tenant and ensure the true cost of the transaction to the state is captured’.¹¹

Fourthly, and most importantly, if we wish to build sustainable communities, those responsible for housing policy must listen to those who are active, energetic and committed to the building of their community. Politicians and officials must be prepared to really enter into dialogue with local people, believing that they are the experts in their own communities, and not just engage in a superficial or half-hearted discussion, seeking to impose preconceived planning proposals on local communities. Housing policy must reflect a willingness to invest resources in the ideas of the community and not just seek to provide housing at the lowest possible cost to the local authority.

Although building integrated sustainable communities today is extremely difficult, we cannot give up. The process for the regeneration of Ballymun, St. Michael’s Estate and Fatima Mansions shows that enough people in local authority communities want community and want to be involved in the planning of their community. Housing policy must change so that such local involvement is fostered rather than frustrated.

Integrated sustainable communities are still possible, though time is running out. The cost of failure will be social unrest, drug-related crime and anti-social behaviour on a scale which we have not yet known.

This is a revised version of a paper presented at a conference, ‘Sustaining Social Housing Communities: Failing to Prepare = Preparing to Fail?, Respond! National Conference 2008’, held in the Killeslin Hotel, Portlaoise, Co Laois, on 5 June 2008.

Notes

1. Michael Punch, ‘Commodity or Home? Critical Perspectives on Irish Housing’, in Sara O’Sullivan (ed.), *Contemporary Ireland: A Sociological Map*, Dublin: UCD Press, 2007, pp. 336–337.
2. In 2007, the total output of new housing was 78,027. New social housing units built or acquired

by local authorities and voluntary housing bodies totalled 8,673 (6,671 constructed and 2,002 acquired).

3. P.J. Drudy and Michael Punch, *Out of Reach: Inequalities in the Irish Housing System*, Dublin: tasc at New Ireland, 2005.
4. Comptroller and Auditor General, *Report on Value for Money Examination, Department of Social and Family Affairs: Rent Supplements*, Dublin, 2006.
5. By the end of 2007, over 11,000 private sector tenants who had been in receipt of rent supplement, were accommodated through the Rental Accommodation Scheme. Department of the Environment, Heritage and Local Government, *Annual Report 2007 and Annual Output Statement*, Dublin: Department of the Environment, Heritage and Local Government, 2008, p. 25.
6. Peter Bacon & Associates, *An Economic Assessment of Recent House Price Developments*, Report Submitted to the Minister for Housing and Urban Renewal, Dublin: Stationery Office, 1998, p. 88; Peter Bacon & Associates, *The Housing Market in Ireland: An Economic Evaluation of Trends & Prospects*, Dublin: Stationery Office, 2000, p. 87.
7. Drudy and Punch (eds.), *op. cit.*, p. 76.
8. The All-Party Oireachtas Committee on the Constitution, *Ninth Progress Report: Private Property*, Dublin: Stationery Office, 2004.
9. The All-Party Committee concluded: ‘Judged by contemporary case-law, it is ... very difficult to see why the recommendations contained in the Kenny Report would not survive constitutional scrutiny.’ (p. 39)
10. National Economic and Social Council, *Housing in Ireland: Performance and Policy*, Dublin: National Economic and Social Council, 2004 (Report No. 112), p. 152.
11. *Ibid.*, p. 162.

Peter McVerry SJ is a member of the Jesuit Centre for Faith and Justice team and an Executive Director of the Peter McVerry Trust, which provides accommodation and care for homeless young people.

Crime and Punishment: A Christian Perspective

Gerry O'Hanlon SJ

Introduction

At the height of the Northern Ireland Troubles, it was usual to distinguish between paramilitary prisoners and ODCs – 'ordinary decent criminals'. The terminology is suggestive, even provocative: is it ever right to consider criminals as 'ordinary', much less 'decent'? Certainly, it would be altogether wrong to trivialise the plight of victims, and especially victims of violent crime, by too lightly using a euphemism like 'ordinary decent criminals'.

Yet there are significant issues that arise concerning the current emphasis in the State's response to crime and those who perpetrate it. In a context where official figures indicate that there has been a fall in the overall level of crime over the last decade – although there has been an increase in the incidence of crimes of violence – there are more people in prison than ever before.¹

These prisons are often over-crowded, with too little in the way of rehabilitative facilities or follow-up from other State agencies when people who have been in prison return to society 'on the outside'.² And since it is not clear that imprisonment 'works' – in the sense that it prevents re-offending – this would seem to indicate a predominantly punitive ethos, which is found also in Britain and the USA. This punitive ethos is encouraged by the tabloid description of the perpetrators of more egregious crimes as 'monsters' or 'scumbags': no longer human, in other words.

It is also true that the majority of those in prison come from disadvantaged backgrounds: perhaps the issue of crime is not simply a matter of 'just deserts', but is also a matter of how fairly we organise our society? Governments speak easily of a 'war on crime', but the war can often seem quite selective: it is interesting that 'white collar' crime, despite its enormous downstream implications, gets relatively little attention. Financial institutions are often subject to regulation rather than criminal law, and tax evasion is not treated like shop-lifting or any other form of stealing.

In the face of the many and complex issues

involved in our concern about crime, especially the issue of the suffering of victims, how ought we to respond? Looking at this question from a Christian perspective, how might the demands of justice be satisfied in a way that transcends an exclusively punitive ethos and reaches out towards recognition of our common humanity?

In another article in this issue of *Working Notes*, Brian Grogan has very ably outlined many of the features of a Christian vision which may 'raise questions in a few minds'.³ God wants us all to be saved; God has a special regard for the sinner (who may also be the criminal); we are asked as Christians to put on the mind of God and act accordingly; there is a basic solidarity which unites us all, despite the most extreme differences and opposition. The great Christian symbol of this vision is the Blessed Trinity, with the Cross of Jesus Christ at its core: God understood as love, as relationship, with a profound unity, which can yet embrace plurality and diversity, and even the diversity of sin and criminality.

This is a vision which respects the demands of justice, but tempers it with mercy, and locates it within the wider context of love. The cross of Jesus 'is the overwhelming encounter of divine transcendent justice with love: that 'kiss' given by mercy to justice'.⁴ We are helped in an attitude of respect for the sinner, while repudiating the sin, by a truthful recognition of our own vulnerability to sin: we live in a world which God created and saw was good, but which is infected by what Christians refer to as Original Sin, so that Augustine could say without any false humility, 'there go I, but for the grace of God'.

We are helped too by the theological categories of social sin and social grace first adopted by Liberation theologians. These refer to situations and structures (be they economic, social, cultural, political) which by their nature facilitate grace or, to the contrary, disgrace and sin. And so, for example, God's justice in the Old Testament is a saving justice which has particular regard for the poor, calling the rich to conversion and to an observance of the Jubilee remission of debts. The passion of Jesus for the Kingdom of God is shot



Balancing the diverse elements of justice

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through with that preferential option for the poor, which Catholic social teaching identifies as intrinsic to the community of peace and justice which God wants to establish among us.

God's justice then has regard not only for acts of individual responsibility, but also for the kind of society that forms the backdrop to such acts. The inequalities in Irish society, mirrored in our treatment of crime, must rightly disturb any complacency we might feel with regard to our criminal justice system.

The Christian Vision and the 'Reality on the Ground'

Bismarck is supposed to have said that one couldn't run a state by the principles of the Sermon on the Mount. In this he was merely reiterating what Augustine (with his notion of the Two Cities) and Luther (with his notion of the Two Kingdoms) had already stated: while one could expect the individual or the Church to be 'holy', or 'justified', this was not a legitimate expectation apropos the state. And the failed Calvinist experiment of a theocratic state seemed to bear this out, as today do the more extreme manifestations of Islamic Sharia states. Indeed, this kind of position is music to the ears of many contemporary liberal secularists, who would prefer the Church to limit itself to the private realm.

However, mainline Christianity and Catholic social teaching in particular think differently. There is no claim that Christianity has some blueprint for the organisation of society. But there is confidence that the Christian vision may offer a significant lens through which ways forward may

be discerned – what T. G. Gorringer refers to as a 'structure of affect'.⁵ And so, with regard to the criminal justice system, there is needed what Brian Grogan refers to as a dialogue 'among the concerned parties on possible ways forward in the highly complex and emotional arena of crime and punishment'. This dialogue must take account of all relevant factors – the responsibility of criminals, even within an unjust society (only a very small minority of poor people resort to crime); the debt owed to victims; the nature and purpose of our response to crime, including wider societal factors, and so on.

What kind of ways forward might this dialogue be expected to produce?

Ways Forward

The Nature of Punishment

A dialogue might, firstly, produce a more holistic understanding of the vexed and somewhat controversial question concerning the nature of punishment as a response to crime. At a popular level, it can sometimes seem that this understanding is not so far removed from the Old Testament 'lex talionis' of 'an eye for an eye' – a measured vengeance which, at best, shades into a notion of 'just deserts'. Instead, it would seem better to grasp punishment from diverse viewpoints, which taken together yield a more fruitful understanding.

So, punishment can be seen to involve:

Judgment on crime – a denunciation of what is wrong;

Retribution – in the sense of a proportionate response to satisfy the demands of 'just deserts', which might include restitution (in so far as this is possible) to the victim of crime, and a certain symbolic balancing of the injury done to the rule of law and the common good of society;

Deterrence – although the common-sense view that this is a major factor is disputed by criminologists;

Restraint and incapacitation – in the case of criminals who are dangerous to society;

Repentance, reform, rehabilitation, leading to atonement and full re-integration into society.

In the parable of the Prodigal Son, the young man suffers the humiliation of a life of poverty abroad and the shame of returning to his father – this is his 'punishment'. But it is a punishment which is completely subordinated to the over-riding

dynamic of the parable which is the unconditional love of the father and his desire to accept the erring son back into the bosom of the family.

This aspect of the Prodigal Son story suggests a challenge to us to allow the retributive aspects of punishment be subordinated to the overall purpose of reintegration and restoration. To do otherwise is to lock ourselves into the iron logic of a strict ‘just deserts’, which is the breeding ground for the resentment of the elder brother in the parable and, in the manner of the Pharisees, may easily become a hypocritical cover-up for our own sinfulness and need of mercy.

Societal Factors

This more holistic notion of crime and punishment must, secondly, take account of the wider societal context. Politicians find it easier to be ‘tough on crime’ than ‘tough on the causes of crime’. I have noted that the vast majority of prisoners come from disadvantaged backgrounds: it makes sense to suppose that where society is organised in a more just and equal way, with all being able to feel that they are stakeholders, there will be a decrease in levels of crime.

In Ireland we know that despite the great gains of more than a decade of economic success there have been downsides as well, including the lack of a social dividend in areas such as education and health (think of drug prevention and rehabilitation programmes) that impact on crime levels. There is the re-balancing to be done in terms of tackling white-collar crime with more serious intent. And there is the worrying coarsening of our society, perhaps attendant on such rapid economic success without an accompanying moral or spiritual compass, which has led to a trivialisation of sex, an upsurge in the recreational use of drugs, a widespread abuse of alcohol, a fragility in relationships and family, and, worst of all, a de-humanising violence which sees the ganglands replacing the paramilitary no-go areas. We need not exaggerate: compassion, fairness and generosity are present too in Irish society, often nourished by deep roots of spirituality and faith. Nonetheless, we do well to recognise the crude forces of a kind of social Darwinism at play in Ireland today, trumpeting the survival and flourishing of the strong and fit.

There is a wide agenda here for government, and indeed for civil society as a whole, and not just for the Minister for Justice, Equality and Law Reform: the issue of crime and punishment cannot

be solved without attending to this wider context. It will not do, for example, to use prisons as a kind of ‘out-of-sight dumping ground’, and prisoners as scapegoats who carry our anger about crime. And it will not do either to allow ourselves to remain undisturbed by questions about societal injustices or how prisoners are to be re-integrated into a hopefully more just society.

One does not have to excuse or condone criminality to acknowledge that many criminals are themselves damaged and vulnerable individuals, victims in this sense of the injustices of our society.

Prison: A Place of Redemption?

Thirdly, it is sadly the case that prisoners themselves rarely experience the hope expressed by Pope John Paul II that prison might be ‘a place of redemption’.⁶ Despite some efforts at rehabilitation, our prisons are in general shot through with a punitive ethos. Several factors need to change here if the reality of imprisonment in our society is to be in harmony with the Christian vision.

*We do well to recognise the
crude forces of a kind of
social Darwinism at play in
Ireland today ...*

We need, first of all, to use imprisonment as a sanction of last resort. It is a form of violence to deprive someone of their freedom. Sometimes violence may be justified – one thinks of surgery, for example. But there are other sanctions – fines, community service, problem-solving approaches which try to tackle the underlying causes of criminal behaviour. Judges, and we as a society, need to reconsider sentencing policy in the light of the reality of a growing number of prisoners and of calls for more prison spaces, and the clear evidence that in most cases imprisonment simply does not work. This is particularly true where non-violent crime is concerned, as, again, is the case predominantly with female prisoners, where the sanction of imprisonment has such drastic consequences for dependent family members and thus for society as a whole.

Furthermore, the prison experience itself ought to be one which is geared predominantly towards rehabilitation. This will mean, *inter alia*, the avoidance of over-crowding (over the last two decades we have rowed back from a century-long practice of single-cell provision); an attitude of respect on the part of all staff; the provision of educational and rehabilitative facilities (such as counselling services and drug treatment); permeable prison walls, in the sense of controlled access to and from the local community, involving fairly remunerated jobs and proximity to family members; and a chaplaincy service that relates to prisoners with those Christian virtues of courtesy, non-condemnation of the person, hope and understanding that God's power is made perfect in weakness.

*The prison experience itself
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None of this need be starry-eyed and soft in a Pollyannaish kind of way: there is need for coercion and firmness, particularly in dealing with hardened, violent criminals. Nonetheless, we know that violence on its own simply breeds more violence. We need to create the kind of space where the person who has committed a crime can come to judge him/her self and to repent, and in doing so we need to trump the predominantly fearful ethos of a criminal justice system that looks to the past and to retribution, with a more hopeful Scriptural approach, which sees justice in the context of a resurrection forgiveness that looks more to the future. From the Christian perspective, it will never do to write someone off as less than human, as incapable of free conversion and repentance. In this context too it will be important to employ a multi-agency approach in the re-integration of the person into society after the prison term has been served.

If one adds to all this the conventional best-practice wisdom that imprisonment with a view to rehabilitation is best realised in smaller-sized units, close to local community and family members, and that women, young people, and people with mental illness should not be co-located with adult male prisoners, then one can

see that many disturbing questions are raised about the prospective Thornton Hall project now under way in our State.

Victims

Fourthly, we need to respond much more sensitively and effectively to the needs of victims of crime. It is true that we have become more aware in recent years of the trauma experienced by victims and the support they require to get their lives back on track, in particular where there has been violence involved. The parable of the Good Samaritan indicates the kind of practical and loving response which can make a great deal of difference to victims of this kind.

There is, however, also an issue in justice regarding the way our criminal justice system operates. The professionalisation of this system, and its specialised, formal, and to the lay person often very abstruse, ways of proceeding can result in an alienating distancing of the victim from judicial proceedings. This arises above all because, in contrast to some traditional legal systems, the State takes the place of the victim in criminal law so that the process can become a contest between State and offender with the victim as an almost incidental witness.⁷ The introduction of victim-impact statements was clearly an attempt to address this problem, even if a not yet entirely unproblematic attempt.

Restorative Justice

Fifthly, we need to explore fully the potential of the various modes of restorative justice (including elements of mediation, re-integrative shaming, and reparation) which bring victim and offender, voluntarily, together in a controlled and respectful way, with the fall-back position of recourse to the conventional means of proceeding within the criminal justice system if this does not work.

One interesting feature of the success to date of this approach in other jurisdictions is the perhaps counter-intuitive finding that what victims want is not simple revenge or punishment but rather recognition, explanation, and some reassurance that no one else will suffer in the same way that they have. But then, again, perhaps we (and judges, who after all, do respond to public opinion) are over-influenced by tabloid vitriol when it comes to offenders: more considered attempts to establish what is public opinion have shown that the public is more interested in a justice that embraces reparation and rehabilitation than any simply punitive model.⁸

Indeed, it would seem that some kind of restorative justice model might work best not just for victims but for offenders and society as a whole, and be more in tune with the Christian vision of justice. To this end, one looks forward with interest to the outcome of the work of the seven-person National Commission on Restorative Justice, chaired by Judge Mary Martin, whose interim report was submitted in March 2008.⁹

Conclusion

I have noted that the Christian vision of justice does not admit of any simplistic application to the secular sphere, nor does it provide a blueprint which gives all the answers. However, it does provide an orientation which can be helpful in reinforcing our better instincts and taming our more savage ones. In this case, it points in a direction of a criminal justice system which legitimates proportionate punishment and the demands of victims for justice, but which locates crime in the context of society as a whole and prioritises the rehabilitation of criminals, with a reduced and more humane use of imprisonment as a sanction. This is a radical position, one which we are failing to take in this State.

I have indicated how this might affect current policy in a number of areas: one could apply the same logic of inference to all other areas of the criminal justice system, including, for example, the need for fair legislation and the resourcing and accountability of the police force.

The radical position indicated above would require a good deal of re-thinking of present theory and practice, but it is a position that apart from being more just to all concerned would also be to the benefit of all, for our common good. We are then, as often, faced with a choice: do we, like the Priest and Levite, pass by on the other side, and drift on? Do we care enough?

There does seem to be something like this kind of 'drift' operative often in Government policy and in our public response – instead of facing problems head-on, analysing them carefully, consulting all the interested parties and coming up with solutions which have widespread support, we tend to get 'solo' runs, with resultant adversarial recrimination and defensiveness. One thinks of issues such as the decentralisation of government departments and agencies; our health service in general and the co-location of private and public hospitals in particular; and now, in the justice

area, the Thornton Hall project. And one contrasts this with the meticulously painstaking, intelligent, dedicated approach to a solution of the Northern Ireland problem. We are capable of better.

Notes

1. It is widely acknowledged that it is difficult to get a true picture on the extent of crime, due to the complexity of the phenomenon of crime, and the methodological problems in measuring it, such as under-reporting of incidents to the authorities.
The official figures indicate that there has been a fall in the overall level of crime in the last decade. For example, total recorded offences in 1995 stood at 581,217 whereas the figure for 2006 was 406,163. Within this overall figure there have been increases in some forms of crime and decreases in others. What is of particular concern to the public and the authorities is the significant increase in the number of murders in the past ten years: whereas there were 43 murders in 1995, by 2006 the number had risen to 60.
With regard to imprisonment, the daily average number of people detained in Irish prisons in 2006, the most recent year for which there are official statistics, was 3,331. In 2003, the daily average was 3,176 and in 2000 it was 2,919.
The daily average in this decade is significantly higher than in previous decades: in 1990, the figure stood at 2,108; in 1980 it was 1,215 and in 1970, 749.
2. For some background reading on the Irish criminal justice system, see Ian O'Donnell and Eoin O'Sullivan, *Crime Control in Ireland: The Politics of Intolerance*, Cork: Cork University Press, 2001; Ian O'Donnell and Finbarr McAuley, *Criminal Justice History*, Dublin: Four Courts Press, 2003; *National Crime Forum Report*, Dublin: Institute of Public Administration, 1998.
3. See also Christopher Jones, 'Punishment and Justice', in Christopher Jones and Peter Sedgwick (eds.), *The Future of Criminal Justice*, London: SPCK, 2002, pp. 43–56.
4. Pope John Paul II, *Dives in Misericordia*, 13 November 1980, n. 9.
5. T.J. Gorringer, *Crime*, London: SPCK (Changing Society and the Churches Series), p. 128.
6. Pope John Paul II, *Message for The Jubilee in Prisons*, 9 July 2000, quoted in The Catholic Bishops' Conference of England and Wales, *A Place of Redemption*, London: Burns and Oates, 2004, p. 79; see also www.vatican.va
7. Gorringer, *op. cit.*, pp. 116–117; p. 124.
8. Irish Penal Reform Trust, *Public Attitudes to Prison*, February 2007 (www.iprt.ie); O'Donnell and O'Sullivan, *op. cit.*, p. 73; *Report of the Committee of Inquiry into the Penal System* (The Whitaker Report), Dublin: Stationery Office, 1985.
9. National Commission on Restorative Justice, *Interim Report*, March 2008, Dublin (www.justice.ie).

Gerry O'Hanlon SJ is a theologian and a staff member of the Jesuit Centre for Faith and Justice.

What Does God Think of Irish Prisons?

Brian Grogan SJ

Introduction

The April 2008 issue of *Working Notes* entitled, ‘Thornton Hall Prison – A Progressive Move?’, has inspired the following article, which is written from the viewpoint of Catholic theology. I have never been jailed myself; however, courtesy of the Department of Justice, Equality and Law Reform I had the privilege of visiting a number of Irish prisons some years ago. I also visit a friend who is currently serving a jail sentence.

I believe, as do so many others, that our prison system is not working well. While I have no easy solution to the problems of criminality, my argument will be that public energy and resources must be massively shifted from developing more prisons, however well-run they might be, into measures that would (i) reduce the causes of criminal behaviour, and (ii) work for the full rehabilitation of those who commit crime.

Crime and Punishment

Imprisonment seems a very practical way of dealing with criminals: commit the crime and you do the time. Our human notions of justice are satisfied with this procedure. And while Christians are aware of the command, ‘Love one another!’, they may feel that there is an implicit divine approbation of the prison system, since God rewards the good and punishes the wicked, or so the older Catechism said. Christians can argue that if a good and loving God locks up the bad in hell and throws away the key, then they can do likewise, and still enjoy a blissful eternity with God in heaven.

But is it that simple? What *does* God think of criminals and prisons? If I can raise questions in a few minds, this article will have been worthwhile. It has been suggested that the question mark is an inverted plough, which breaks up the hard soil of old beliefs and prepares for new growth. We need that plough in relation to our outmoded thinking about imprisonment.

I offer a variety of approaches. These approaches are Christian, not in the sense that Christians will always be found to be acting in accordance with

them – often they are not – but in the sense that when you read the New Testament, they hit you in the eye. They are disconcerting approaches which threaten our comfortable beliefs and stances. God’s thoughts are certainly not ours, but if you profess to be a Christian you have to grapple with divine thinking and imagination in a way that turns your mindset inside out. If you take God seriously you find yourself swimming hard against the stream, because divine and human culture contradict one another, and perhaps nowhere more so than in relation to the ‘wicked’ who offend us.

The End Game

A first approach to the issue of imprisonment is to ask: *What is God’s project for the world? What is the purpose of human history? Has life an ultimate meaning?*

You may have your own well-thought-out beliefs on these large questions, or you may not. But Christian belief is clear in regard to them: it asserts that God’s ultimate intention is a Final Community of Love – a cosmic party on a scale that no human bash can even hint at! The invitations have already gone out; everyone is invited; the only ‘terms and conditions’ are that *admission is for those who accept the presence of the other guests.*

If God has his way, the final party will be all-inclusive. But the demand on each of us will be high: if I refuse to accept any of God’s guests, then I must wait outside and have some sessions of remedial education in loving, until my heart softens towards those who in my view should be excluded from the fun.

Forgiveness

But how can I be at ease at a party if I’m landed beside someone who has committed crimes against humanity, or against me in particular? Could it be that in the final scenario, those who have wronged others will have to beg their victims for pardon and reconciliation – a cosmic version of the Truth and Reconciliation Commission in South Africa? Peter McVerry outlines this idea in his recent book, *Jesus, Social Revolutionary?* The

Kingdom of God, according to Jesus, belongs to the poor: if the rich are to get into the Kingdom they will have to ask forgiveness from the poor insofar as they have mistreated them, and the poor will have to forgive them.

In the New Testament there is an outrageous emphasis on forgiveness. It is acted out in a dramatic way in the Passion where Jesus is shown as forgiving his enemies who are torturing him to death. It is crystallised too in the image of the servant who owed his master a huge sum and could not repay, and the master in his compassion remitted the debt. But the servant meets a fellow-servant who owes him a small amount and refuses to let him off. The master gets to hear of this and punishes him, because he has completely missed the point about forgiveness.

What is the point about forgiveness? It is that the compassion of God toward me must be the paradigm of mine toward everyone else. If we ourselves are to be included at the End, it will be due to God's goodness rather than our own, for none of us can claim that we fully live out the golden rule: *Do to others as you would have them do to you.*

If you had committed a crime, what would you have 'them' do to you? Speaking for myself, I would want 'them' to listen to my story as mitigating the crime; I would want 'them' to allow me to make amends in some constructive way; I would want my dignity to be respected always; and, finally, I would want to be enabled by 'them' to make a fresh start. 'Well then', the Lord would say to me, 'Do what you can to shift public attitudes and your own in these directions. Passive goodwill won't suffice. Risk something!'

Whose Side is God on?

God certainly loves me, but it is equally clear that God loves all others as well, including the 'bad'. God wishes me well, and works endlessly for my wellbeing, but he does likewise for all others. God is not only on the side of the godly but is on the side of sinners – outcasts, misfits, failures, wrong-doers, evil people. God knows better than we what malice humans are capable of, but God also has a stubborn vision of what they can become, and God works to that vision.

Are we forced to conclude that we must do the same? If God despairs of nobody, neither must I. We may not get very far with some: for the

common good, and their own, those whose humanity is badly twisted may have to be permanently restrained, but with the dignity that is their due. The majority of those who commit crimes, however, can be helped in their self-development, and restored to the community.

From Condemnation to Concern

St Paul refers to the weaker members of society as 'the brother or sister for whom Christ died' (1 Cor 14:13). This is an iceberg statement! The Son of God has died for me, but also for that criminal whom I loathe. God is determined to save the wicked, rather than eliminate them or punish them eternally. This is a total reversal of Old Testament belief, in which the good (= the Jews) will be vindicated, while their enemies will catch it in the neck. But from a New Testament perspective, salvation is for all; God is shown as being engaged in getting everyone onside, not least the bad.



*Mural painted by a prisoner; Mountjoy Prison Chapel
©D. Speirs*

Do most of us still live out of Old Testament mentalities regarding justice? There, things seem simpler, more logical and more appealing – the bad get their come-uppance and the good (including ourselves, of course!) will be vindicated and rewarded. But if my sister or brother is of limitless worth and value to God, then I need to shift from condemnation to concern for them when they are wayward. We may hope that we may not have to die for them, but we must be ready at least to put ourselves out for them, according to our abilities.

What About Hell?

I mentioned above the deep-rooted Christian belief that God punishes the wicked, rather than that he labours to restore them. In fact, opposing traditions on this topic co-exist in Scripture. In line with the Old Testament tradition, hell is mentioned in the New Testament over 200 times, according to the biblical statisticians, and eternal damnation is painted in lurid colours, beloved of artists such as Michelangelo. But there is another tradition there too, asserting the salvation of everyone. Three references must suffice out of many. Jesus is spoken of as ‘taking away the sins of the world’ (John 1:29). He himself speaks of ‘drawing all people to himself’ (John 12:32), and Paul states that ‘in Christ all are raised to life’ (Rom 5:18).

This latter tradition – that all persons will be saved – was eclipsed as time passed, because it seemed much truer to the sad facts about humankind to admit that quite a number of us would be lost. Only a few writers, who included women such as Julian of Norwich and Thérèse of Lisieux, kept the second tradition alive. Most recently, a favourite theologian of Pope John Paul II, Hans Urs von Balthasar, has brought to the fore again this enduring tradition about the salvation of all.

‘Anybody There?’

Will anyone miss the party? Is anyone in hell? The Church, despite much provocation, has never stated that anyone is in hell, but it does know that God wants everyone to be saved, and so the Church prays for that, despite all the evidence. Vatican II has a sober optimism that God’s project – the Final Community of Love – will succeed.

The up-dated *Catechism of the Catholic Church* takes a new line on the Last Judgement (Matt 25:31–46) which depicts the separation of the sheep from the goats etc. Rather than affirming the older view that such scenes are a preview of or trailer to the final situation of humankind, it states that texts about hell ‘are a call to the responsibility incumbent on us to make use of our freedom in view of our eternal destiny; they are an urgent call to conversion while there is still time’ (1036, 1041).

There is a well of energy here: if God intends that everyone – no exceptions! – will be a participant in the joy of the world to come, then I can be motivated to help to develop a society in which

God’s project begins to be shaped up. I will witness against the prevailing culture to an inclusive, restorative, rehabilitative society.

Solidarity

Solidarity is a neglected notion, but the issues of ecology and globalisation are forcing us to return to it. Science tells us that everything is in relationship with everything else. We all contribute more or less to the problems of the world: each of us leaves both carbon *and* moral footprints. Apathy plays its part: as Augustine said 1,500 years ago, ‘For evil to succeed, it is enough for the good to do nothing!’

We all contribute more or less to the problems of the world: each of us leaves both carbon and moral footprints

The notion of solidarity is set out by Paul in his metaphor of the body. We form one body; all the parts are to feel for one another (1 Cor 12). We have one history, one common destiny. We are all in this together! Our single history is linked to that of Christ. Reversing the downward spiral of human history made limitless demands on his love, and will make like demands on ours also. But if we’re all in this together, those who are healthy must help those who are sick. To rubbish or despair of them would be to rubbish and despair of ourselves.

Conclusion

Dialogue is needed among the concerned parties on possible ways forward in the highly complex and emotional arena of crime and punishment. We are all affected by crime; we all pay for it in one way or another. A hard look at the facts is needed, but for Christians this must be in the light of a vision of how God intends things to be. A fund of goodwill within the nation can be channelled, if we have the energy and the love to do so.

No doubt, prisons are a necessary response to people who commit the most serious of offences

or who are not willing to cooperate with alternative sanctions. But prison is a last resort, an acknowledgment of failure.

We need honest debate on the effects of a prison term on the convicted person and his or her family. We need imagination to promote initiatives for rehabilitation of the convicted. More of our resources need to focus on these. And we need to focus intensely on eliminating the causes of criminality. While financial resources will be needed, the most important resource will be personal commitment based on goodwill, respect and hope for criminals. It may be that at the End, this will stand to us when we are on trial ourselves. 'In the evening of life, we will be judged on love alone.' (St John of the Cross)

Brian Grogan SJ has recently finished a six-year term as President of Milltown Institute of Theology and Philosophy in Dublin. A lecturer in theology and spirituality and author of a number of books, his focus is on how faith can be related to everyday issues.

Women in Prison: The Corston Report

Baroness Jean Corston

Introduction

In March 2006, I was commissioned by the then Home Secretary, Charles Clarke MP, to undertake ‘a review of women with particular vulnerabilities in the criminal justice system’ of England and Wales. My report was published in March 2007.¹ In December 2007, the Government issued an official response to the findings of the review.²

In this paper I want, first of all, to say something about the background to the review. I will then say what I found, what I concluded, and what is now happening in response to my report.

Background to the Review

In 2003, fourteen women took their own lives in prisons in England and Wales. In 2004, thirteen women died. These deaths are categorised as ‘self-inflicted’; you cannot say that the women concerned intended to die, but that was the outcome, and so they are considered to have died by their own hands.

Between August 2002 and August 2003, six women died in one prison – Styal, in Cheshire, which serves North Wales and the North-West of England. Following the death of the sixth woman, Julie Walsh, the then Minister for Correctional Services, Paul Goggins MP, asked the Prisons and Probation Ombudsman for England and Wales to conduct an investigation into the circumstances of her death, considering also what might be learned from the previous deaths in the prison. (Up until then, deaths in custody had been investigated by a governor from another prison. In January 2004, it was announced that from April that year, the Prisons and Probation Ombudsman would be responsible for the investigation of all deaths in prison.)

Concurrently, there were calls for a public inquiry into the deaths in Styal. The Home Secretary, Charles Clarke MP, said he saw no useful purpose in such an inquiry, on the grounds that he did not believe anything would emerge that would not come out in the investigation into Styal being carried out by the Prisons and Probations Ombudsman.

There was also a brave campaign by a woman called Pauline Campbell, whose daughter was the youngest of the women to die in Styal. Whenever a woman died in prison, Pauline Campbell mounted a vigil outside that prison. Pauline’s campaign was therefore part of the reason that Charles Clarke eventually decided to set up an independent review. The tragedy is that Pauline herself was found dead on her daughter’s grave in mid-May 2008. Her story shows the wider effect of deaths – unexplained, unnecessary, preventable deaths – of vulnerable young people in prison.

I believe that Charles Clarke’s decision to set up a review was also very influenced by a letter written to him by the Coroner for Cheshire, Nicholas Rheinberg, who had statutory responsibility for conducting the coroner’s inquest into the deaths of the women who died in Styal. In his letter, Nicholas Rheinberg said, with reference to the women prisoners who had appeared before him as witnesses during the inquest:

I saw a group of damaged individuals, committing for the most part petty crime for whom imprisonment represented a disproportionate response. That was what particularly struck me with Julie Walsh who had spent the majority of her adult life serving at regular intervals short periods of imprisonment for crimes which represented a social nuisance rather than anything that demanded the most extreme form of punishment. I was greatly saddened by the pathetic individuals who came before me as witnesses who no doubt mirrored the pathetic individuals who had died. A far ranging review concentrating on alternatives to imprisonment for drug dependent women repeatedly coming before the courts charged with petty crime would be a very valuable exercise.

Charles Clarke and his ministerial team – which included three women – decided not to respond by commissioning research. They said they wanted a practical piece of work that would draw on the research of the last thirty years – all of which, by the way, points in the same direction – and make recommendations. And I was asked to undertake this work. I said that I would do it so long as they

agreed to publish my report in full, and provide staff and facilities to assist me. And the answer was a resounding ‘yes’.

Findings

I found that in the decade ending in 2006, the women’s prison population in England and Wales rose by 94 per cent; by contrast, the male prison population rose by 38 per cent. The reason for the increase in the imprisonment of women is quite simple: courts are using custody more frequently for women who come into the criminal justice system for less serious offences, though lately this trend has levelled off.

In February 2008, there were 4,380 women in prison in England and Wales. Of these prisoners, 877 (20 per cent) were on remand. Women on remand are usually held for four to six weeks: long enough to lose their home, because they cannot pay the rent, and their children. The personal costs of such imprisonment seem all the more terrible in light of the fact that when women who have been held on remand go on trial, 20 per cent are acquitted and 60 per cent are deemed not to warrant a custodial sentence. Of those who are sent to prison, nearly 20 per cent receive a sentence of less than one year.

Behind the statistics are the personal stories. Of the women in prison, 80 per cent have mental health problems. At least half were a suicide risk before they went into prison. Nearly three-quarters are drug-dependent. I’m not just talking about class-A drugs: I’m talking also about alcohol and prescription drugs, sometimes in the most amazing combination. Some women entering prison have a poly drug misuse habit involving up to eight different substances.

I found that offending on the part of women was often triggered by sexual and violent victimisation. What was absolutely extraordinary was the incidence and degree of abuse which women who were in prison had suffered. Over half admit to having experienced some form of abuse. To a startling extent, these women have experienced sexual abuse in childhood, which leaves them with not only a total lack of self-confidence but a lack of a sense of self-worth because, of course, like most victims they blame themselves. And what makes me particularly angry is that in Britain – and as an Irish passport holder I feel I have the right to say that perhaps in Ireland too – we are rightly exercised about the

perpetrators of child abuse, but seem slow to give serious attention to the fate of their victims. A disturbingly large number end up in prison.

Women in prison are often people with no life skills. The things that we all take for granted, that we think of as part of the human condition, are actually things we learn. We have learned to hold a conversation. We have learned to try to be persuasive. It is extraordinary how many of the women in prison lack these kinds of skills. If you try to have a conversation with seven women prisoners, it is likely they will all speak at once. And if you ask that they speak one at a time, that is what they will do: they will take it in turns to speak. There isn’t an interplay, because they do not know how to do that. And, of course, if you do not have these skills, your parenting is not very good; you are not a very good neighbour; you are not a very good citizen.

Women in prison self-harm in huge numbers: women make up only 6 per cent of the prison population in England and Wales yet over 50 per cent of the self-harm in prison is by women. During the visits I have made to prisons where women are detained, I encountered evidence of the most shocking self-harm.

Every year in England and Wales, 18,000 children are affected by the imprisonment of their mothers

Women in prison have committed offences that are frequently associated with poverty and financial difficulties. Great numbers of them are mothers. A large number of their children will themselves end up in prison – as many as half.

Every year in England and Wales, 18,000 children are affected by the imprisonment of their mothers. Only 5 per cent of those children stay in the family home, and generally their fathers do not look after them. When a man goes to prison, usually there is somebody to keep the home fires burning, and at least their children are cared for. Women in prison try to bring up their families from prison. You hear these women on the phone, trying to bring up their children by phone call with the small amount of money they get every

week to make calls.

The women who are in prison are held a long way from home, because there are so few women's prisons. So there can be horrendous round journeys just to get to see a mother, daughter, or sister in prison. But, in fact, many women prisoners do not have visitors. Go to a prison for men on visitors' day, and you will find that it is packed. Go to a women's prison on visitors' day, and it is rarely full. And, of course, that has a knock-on effect for children, because they do not have the contact and the right to some kind of family relationship with their mothers.

More often than not, by the time women are released from prison *none* of their offending behaviour has been dealt with, but in the first two weeks after release they are thirty-six times more likely than the general population to commit suicide, or die from an accidental drug-related overdose.

Core Conclusion

The core conclusion of the review – and this sounds obvious but actually has far-reaching consequences – is that prison is a male construct. Prisons are designed for men, and prisons are, by-and-large, run by men. All of us, I think, now recognise the importance of gender equality. In Britain since April 2007 we have, as a result of the Equality Act 2006, a 'Gender Equality Duty' – a duty on all public bodies to implement policies and practices which will provide for, and result in, gender equality. This does not happen in our prison system. My basic premise was that women and men are equal, but they're different. If you treat them the same, the outcome isn't equality.

An illustration of this point is the general perception of what is needed to prepare prisoners for life after their sentence is finished. If you ask people who work in a prison, 'What is the biggest challenge for a prisoner on release?' they will answer, 'Finding a job'. They will say, 'It's our job in prison to try to deal with prisoners' offending behaviour by giving them some skills that they will then use when they come out of prison'. But finding a job is not *the* priority for women. It is on the list, but it's down at number three or four.

When I asked the women I met in prisons, 'What do you want?', the response was always the same: every, and I mean every, woman prisoner I spoke

to replied, 'Somewhere for me and my kids to live'. In Scotland, they said, 'me and my wains', but it amounts to the same thing.

If a woman turns up to the local authority and says, 'I've nowhere to live, I've come out of prison', they are likely to be told, 'Well, you fall outside the homelessness legislation because you've made yourself intentionally homeless by going to prison. And, anyway, you haven't got your children, so we're not responsible for you.' So then they go to social services, or whatever authority has got care of their children, and say, 'I want my children back', and they're told, 'No, you can't take care of them because you have nowhere to live'. And that's where the vicious circle starts, and it goes on and on, and is repeated. I heard of a woman in Styal prison who had just given birth to a baby: she herself had been born in Styal. Such an occurrence is not unknown in other prisons – including, I suspect, in Ireland.



Baroness Jean Corston addressing the seminar, 'Women in Prison: The Need for a Critical Review' © JCFJ

So, I concluded that given that women and men are obviously different, there ought to be a prison regime that is tailored to women's needs. After all, if we had a prison regime that was tailored to the needs of women but applied generally, men, rightly, would complain.

Recommendations

There were forty-three recommendations in all in my report, and I was very pleased that forty of them were accepted – some in principle, their implementation depending on finances. Three were not accepted at all.

My key message was that no one was in charge: no one person or body was responsible or

accountable for the provision of care and services to women who came into the criminal justice system. Every department tended to leave responsibility to the Home Office: 'Oh, prisons is the Home Office'. A particular department might have responsibility for a specific area – for example, responsibility for prisoners' health issues had been taken away from the prison service and given to the health service. And it had been decided that prison education would no longer be dealt with by the prison service but would be run by the authorities responsible for education. But these departments and agencies were all in their separate silos. I said that had to stop, and that all seven departments of state to whom my report was addressed should be involved.

There is now a Ministerial sub-group of three women ministers who are taking this agenda forward. This Ministry of Justice-led group reports regularly to the Inter-Departmental Ministerial Group for Reducing Re-offending. So, as of now, there is someone within the government who is seen as responsible for progress on this agenda, and for looking at the needs of women with particular vulnerabilities within our criminal justice system.

In my report, I emphasised the Gender Equality Duty, and said that every agency in the criminal justice system must prioritise and accelerate measures to give effect to that duty, so as to transform the way of providing services for women who come into the criminal justice system.

Multi-functional Custodial Units

I also said that within six months the Government should announce a clear strategy to replace the existing women's prisons with small, geographically-dispersed, multi-functional custodial units, and that this strategy should be implemented within ten years.

I am not saying that no woman should ever be in prison. Of course, there are women who have committed crimes which are of such seriousness that the protection of the public, or the interests of justice, require that they receive a prison sentence. Government policy in Britain as stated today is to imprison those who represent a threat to the public, and whose detention is seen as in the public interest. But the majority of women in prison do not fit that profile: most are a danger only to themselves.

In my view, detention of women is appropriate where the offence committed is serious enough to merit a sentence of imprisonment of more than two years. But a policy of having small, local, custodial units is the better way to deal with such women. First of all, it makes resettlement in their home area easier. Family ties can be maintained, so that at least the women who are detained have some contact with their children, and have less risk of losing them to the care system. Secondly, it is more appropriate because large prisons just do not work for women. You have only got to go into one, to be in one for any length of time, to see that this is true.

Women's Centres

I also said that, as part of the package of measures for the delivery of probation and other programmes, there should be a network of women's centres to be used for referrals by the courts and other public bodies and individuals, such as GPs.

There is now a lot happening in relation to this. One such centre is in Glasgow and is called *218*. It was established in 2003 following concerns about the number of women who died while imprisoned in, or on release from, Cornton Vale, the only women's prison in Scotland. *218* is part of an office block in the centre of Glasgow, so going there is not stigmatising, and access is easy. Members of the centre's staff are in the courts every day, and can speak to sentencers, suggesting programmes to deal with women's offending behaviour so as to turn their lives around. There is also a secure wing at the centre, for women on remand.

Generally, I would say that the Scottish Parliament has shown itself to be extraordinarily enlightened: if you do not want to take England as an example for the development of policy in relation to women offenders, take Scotland.

I have seen centres similar to *218* in Halifax and in Worcester, except that they do not have a secure facility. These centres – the Calderdale Centre in Halifax, and the Asha Centre in Worcester – are models of good practice. There are others throughout the country. A similar project called Turnaround is about to be launched in Wales.

Community sentences – which might involve working in an older person's garden or cleaning up graffiti – are fine as far as they go, but they do not deal with the underlying reasons the person

offended in the first place.

A woman-centred approach such as that adopted in the centres I describe does work. One of the reasons it works is that the service deals not just with the drug addiction, or the financial difficulties, or the mental health problems, or the child care and access problems, each in isolation, but it deals with the woman herself, and encompasses each of these issues. And the fact that all these issues are dealt with together rather than through separate services is particularly important given that the women concerned find it difficult and often impossible to keep appointments.

Strip Searching

Another of my major recommendations was that the strip-searching regime should be radically changed. I entirely accept that when people come into prison they should be thoroughly searched, but women were being strip-searched on a routine, almost daily, basis. They would be strip-searched before they went to court; they would go to court in a locked van; go from the locked van into a cell underneath the court; go up to the dock; go back down into the locked room; go back to prison – and then they would be strip-searched again. And to have this done at all, if there is no need, is deeply degrading, but where it is done to women who have been repeatedly sexually abused in their lives, it can be terrible.

*Women's prisons must never
be on shared sites with
prisons for men*

This strip-searching regime is that used in prisons for men, where carrying weapons can perhaps be an issue. But governors of women's prisons told me that they never found anything as a result of searching. If you speak to women about how it makes them feel, they say: 'degraded', 'humiliated', 'dirty', 'invaded'. This regime of strip-searching is very damaging to prison relationships – yet a relationship of trust between prison staff and prisoners is acknowledged to be very important. So the report said that the strip-searching regime should change.

This was a reform that did not involve any

financial cost. I am delighted to be able to say that the three women ministers on the Ministerial subgroup said to the prison service, 'that's going to happen'. So they set up a pilot in four prisons, with the authorities told that they had a choice: either have a system with a routine but less intrusive body search, not involving the removal of underwear, or change to a system which is intelligence-based, where prison officers would carry out a search only when they suspected someone might be concealing something. In the four prisons where the new approach is being piloted, prison staff are amazed at how well the new system is working; how much time they save; how much better the relationships are. At least one of these four pilots is using the 'intelligence' approach. So I am confident that in the foreseeable future routine full strip-searching in women's prisons will become a thing of the past.

Separate, not Shared Sites

I was also absolutely clear that women's prisons must never be on shared sites with prisons for men, which I gather is what is likely to happen here in Ireland. It has happened, obviously, in Britain. There was a wing of Durham Prison which was for women. This is now closed but the experience of imprisonment in that unit was deeply damaging to the women detained there, because, once again, the regime was for men. In that prison too there was a series of suicides.

It is impossible to say to prison officers who are on a shared site, 'Right, you have this practice when you're working there, and this practice when you're working here'. Even if staff members are working in the women's wing only, the likelihood is that the regime will be identical to that of the men's prison.

(During my visit to Dublin I met a woman in the Dóchas Centre who had served previous short sentences. I asked her how she felt about Dóchas, and her response reflected her gratitude for the conditions in the Centre. She had served her previous sentences in Limerick and she said: 'There, they treated us the way they treated the men'.)

In December 2007, the Northern Ireland Affairs Committee of the House of Commons issued a report on the Northern Ireland Prison Service, after taking evidence from many people, including me. In the section of its report dealing with women prisoners, the Committee praised the Dóchas Centre as a model of good practice, and

was critical of the fact that the only women's prison in Northern Ireland, Ash House, was located on a shared site at Hydebank Wood. The report pointed out that the women prisoners in Ash House had to share some facilities with the male juvenile offenders detained in Hydebank Wood, and said: 'The limitations of the current women's regime at Hydebank Wood, which largely occur because of the shared site, have a negative impact on the women's resettlement'.³ The Committee concluded: 'We are convinced that there is a pressing need for a self contained women's prison facility in Northern Ireland'.⁴ This recommendation has largely been accepted both in Belfast and London.

Conclusion

When I was in the Asha Centre in Worcester, I spoke to a woman who was forty-one years old, and who had been in and out of prison all her life from the age of fifteen. Fifteen times she had been in prison. She had three children. The first had been put up for adoption without her consent, and so she will not have contact with that child again. The second is in care and also lost to her. As to the third, she thought there was a chance she would be with her again.

I asked this woman what she was doing at the Asha Centre, and she said something like:

Some magistrate told me to come here instead of going to prison because he said that prison clearly hadn't worked.

When I asked what had been the outcome for her of coming to the Centre, she said:

Well, I've always been able to blame someone else. Whenever I've been in prison it's always been someone else's fault. If my stepdad hadn't done that to me. If my mother had protected me. If that man hadn't abused me. If I hadn't got pregnant. If I hadn't taken drugs. If I hadn't become a prostitute. If I hadn't been coerced into prostitution because I was poor. It was always someone else's fault.

Then she said:

I'm forty-one years old. And this is the first time in my life someone has sat down with me and said, 'But what's your responsibility for being here, for being in this situation? What is it you're doing, or not doing, to cause this to happen?'

And she said:

Actually, it's much harder than being in prison, but I really do feel that I'm turning my life around. And I'm beginning to like myself.

We know how important that final statement is, because we all know that self-esteem and self-confidence are the key to what we think of as ordinary adult life.

In England, Wales, Scotland, and Northern Ireland, governments are setting their faces against the very policy that it appears is being implemented in Ireland, which I find very sad. Because you see, the women in prison almost all lead pathetic and chaotic lives. They need a woman-centred approach to help them towards the kind of citizenship most of us take for granted. As they are, these women make terrible neighbours; I'd like us to help them to be good neighbours.

This is an edited version of a presentation made to a seminar, 'Women in Prison: The Need for a Critical Review', organised by the Jesuit Centre for Faith and Justice and held in The Bar Council Law Library, Dublin, on 22 May 2008.

Notes

1. *The Corston Report: A Report by Baroness Jean Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System*, London: Home Office, 2007.
2. *The Government's Response to a Report by Baroness Jean Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System*, Norwich: The Stationery Office, 2007 (www.justice.gov.uk)
3. House of Commons, Northern Ireland Affairs Committee, *The Northern Ireland Prison Service: First Report of Session 2007–08*, Vol. 1, London: The Stationery Office, 2007. n. 69, p. 26.
4. *Ibid.*, n. 81, p. 30.

Baroness Jean Corston is a Labour Peer and has been a member of the House of Lords since 2005. She is a barrister and was an MP from 1992 to 2005.