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War, peace and penal abolition in the north of Ireland

Phil Scraton

Introduction

In 1922, the Irish Free State was established, ending centuries of British colonial rule. Regulated by 'special powers', however, six of the nine northern counties of Ulster were designated a 'Province' – Northern Ireland – within the United Kingdom; harsh policing and internment without trial directed against Catholic/Nationalist/Republican (CNR) individuals persisted. The late 1960s civil rights movement led to British military occupation spanning three decades. In 1981, incarceration under special powers and the criminalisation of politically affiliated prisoners resulted in fatal hunger strikes. Seventeen years later, the Good Friday/Belfast Agreement ended the conflict. Politically affiliated prisoners including those serving life sentences were granted early release, yet conditions for 'ordinary' prisoners remained austere and degrading. 'Early release' of 'political' prisoners offered a unique opportunity to consider extending decarceration to 'ordinary' prisoners – it was missed.

Challenging the carceral state

Within most advanced democratic states, deprivation of liberty remains the ultimate punishment for breaches of the criminal code. Sanctions take diverse forms: immigration detention; remand while awaiting trial; days calculated for non-payment of fines; short-/medium-/long-term/life/indeterminate sentences; confinement in psychiatric hospitals. Those incarcerated include women, men and children detained as 'non-citizens', those hospitalised indeterminately, those classified as mentally ill, and those claiming political purpose or affiliation in breaching the criminal code. Incarceration also reflects political, regulatory responses to 'offending' behaviours within hierarchical societies divided by wealth and poverty, gender and sexuality, 'race' and ethnicity. The 'rule of law', the administration of criminal justice does not operate outside structural inequalities but reflects their determining contexts. This critical perspective questions the purpose of incarceration and the conditions inflicted on prisoners.

   Consistently undermining critiques of incarceration's rationale and purpose, powerful political and ideological discourses frame popular assumptions regarding 'crime' and 'criminality'. Emboldened by mainstream criminological work, they reflect and sustain popular assumptions

supporting penal expansionism. They give legitimacy to the lucrative collective mission of architects, social scientists and psychiatrists who construct and facilitate a carceral programme dancing to the reformist tune of 'humane containment' while dismissing decarceration and abolition as the fanciful aspiration of 'bleeding-heart liberals'. Penal reformism, however, is derived in the campaigns of philanthropists and humanitarians outraged by conditions in 18th- and 19th-century gaols.

In 1777, John Howard wrote *The State of Prisons*, recording that many were 'totally destitute of the necessities of life', places where 'sloth, profaneness and debauchery' prevailed (Howard 1929, p. 3). Recommending appropriate governance and staffing, his oft-quoted conclusion was that the state should not 'punish less' but 'punish better': a clarion call to penal reformism underlying the eventual 'birth' of the 'new prison'. It solidified a political and ideological commitment to imprisonment so embedded in popular consciousness that a society without captives became unimaginable while penal abolitionists were rejected as liberal fantasists. Influenced directly by Howard, the 1799 Penitentiary Act progressed a prison building programme that by the mid-19th century in principle tied punishment to rehabilitation. Thus, the emergent religious, humanitarian ethos fused with penal expansionism.

Transition to 'new prisons' and their disciplinary regimes were not isolated from other punitive forms of regulation. Prisons, sanitoria, schools, factories and mines collectively represented what Foucault (1977) identified as carceral society, the processes of institutionalisation mirroring the imperatives of subordination to maintain and reproduce social and structural inequality essential to the success of advancing capitalist economies. Maintaining a society of captives was not restricted to confinement behind walls of prisons or sanatoria. Overcrowded tenements, jerry-built millworkers' or miners' cottages and workhouses accommodated fragile life-spans of penury, a carceral daily routine in reality and effect.

A century on from the Penitentiary Act, Oscar Wilde, serving two years' hard labour for 'gross indecency', wrote *The Ballad of Reading Gaol*. Starving, ill and hopeless, he recorded extreme deprivations suffered by women, men and children in imposed silence. Prison was a 'foul and dark latrine . . . some grow mad, all grow bad, and none a word may say' (Wilde, n.d). This institutionalised brutalisation was clearly evident in the cruel treatment of women suffragettes held under the 1913 Prisoners (Temporary Discharge for Ill-Heath) Act – the 'Cat and Mouse Act'. Force-fed on hunger strike, they were 'reduced to a dangerous state of illness', released and, following recovery, re-imprisoned (Cole and Postgate, 1961, p. 490).

A century on, the 'penal complex' has not achieved reformist objectives of prisoner transformation and desistance from offending. As Garland (1985, p. 260) predicted, it has reinforced 'closely supervised spirals of continued failure', most evident in the USA where 'rehabilitation' has been diminished by 'aggressive incapacitation and containment' (Fleury-Steiner and Longazel, 2014, p. 8). Constraints on prisoners' movement and interaction have created, 'pure custody, a human warehouse' amounting to 'a kind of human waste management' (Simon, 2007, p. 142). As Rhodes (2006, p. 76) concludes, 'emphasis on efficiency and security' has initiated regimes marshalled by 'intense surveillance', stripped of fundamental human need for 'sensory stimulation, social contact and privacy'. In the UK, to meet the demands of an ever-increasing prison population, serving ever-lengthier sentences, previously condemned Victorian prisons remain open. Driven by an 'economies of scale' model, multi-occupancy 'Titan' prisons have been commissioned.

UK prison history and current expansionism are derived in a persistent rationale founded on an assumed imperative of punishment. Retribution for loss and harm caused to 'victims' of crime remains the key moral and political justification, in principle calibrated as 'time' confiscated from the offender proportionate to the seriousness of the offence(s) committed. Certain

acts or activities are denounced as criminal, thereby worthy of perpetrators' loss of liberty. The assumption is that exemplary, retributive prison sentences incapacitate the offender while deterring others. Retribution, denunciation, incapacitation and deterrence reflect a punitive commitment cloaked in the language of liberal reformism and rehabilitation. Herein lies the profound deceit of restoration: the carceral illusion that regimes have the intent, capacity and personnel to offset harm inflicted on victims via transformative programmes thus enabling contrite offenders to desist from offending behaviour, returning to communities 'reconstituted'.

In the late 1960s, Goffman condemned how 'self-determination, autonomy and freedom of action' (1968, p. 47) are stripped from prisoners, leaving them 'scared, ashamed, unhappy' (Christie, 1981, p. 13). More recently, Sim (2009, p. 4) concluded that 'rehabilitative discourses' never had 'an institutionalised presence' in the daily operation and routines evident in the 'working lives of prison officers or landing culture that legitimates and sustains their often regressive ideologies and punitive practices'. Rather, prisons are 'invisible places of physical hardship and psychological shredding', their operational practices protected by the walls, fences and bolted doors endemic to total institutions. As Quinney concluded, they house communities 'of incomplete and wounded lives', the 'pervasive' harm of their incarceration impacting 'on all levels, economic, social, psychological and, ultimately, spiritual' (2006, p. 270). Internationally the prison industrial complex generates huge profits while compounding social exclusion and persistent poverty, key components of dehumanisation.

In 2005 Critical Resistance republished the 1976 Prisoner Education Advocacy Project handbook on penal abolition. It opens with a quote from Ohio's Judge Carter at the 1870 Congress of the American Prison Association demanding prison abolition. Prisons, he stated, were institutions of systemic degradation destroying potential for reform of those inside. The handbook also acknowledged the 1930s work of the renowned criminologist Frank Tannenbaum, who condemned prisons as 'brutal and useless' to be dismantled 'root and branch'. The handbook reveals persistent opposition to incarceration, coherently challenging the evolution of the prison industrial complex. Yet the consolidation of imprisonment as 'an inevitable and permanent feature of our social lives' has rendered abolition 'unthinkable and implausible', its advocates 'dismissed as utopians and idealists' (Davis, 2003, pp. 9–10). As the following discussion of mass prisoner release in the North of Ireland demonstrates, however, there are circumstances in which the constitutionally unthinkable becomes politically convenient.

Contextualising incarceration in Northern Ireland: from war to peace

From 1969 to the mid-1990s, the Northern Ireland Conflict took a severe toll on its people. Its population was approximately 1.6 million, yet 3,636 were killed of whom 2,037 were civilian men, women and children (McKittrick et al., 1999). Hillyard et al. (2005) note that 88,000 households lost a close relative, and a further 50,000 households had a resident injured. Over half the population knew a person killed. Due to sectarian intimidation and harassment, approximately 28,000 people were driven from employment and 54,000 families were relocated. Shootings, bombings and ethnic cleansing were regulated by special powers, internment and non-jury trials. It was the culmination of five decades of oppression and uneasy peace.

Following the 1916 Easter Rising and civil war, the 1920 Government of Ireland Act had partitioned Ireland, establishing six of the nine Ulster counties as Northern Ireland within the United Kingdom. The 1921 Anglo-Irish Treaty created the Irish Free State and eventually Ireland/Éire was fully constituted a democratic republic. In the six counties, there was no transition from war to peace, from conflict to normalisation. 'Special' or 'emergency' powers remained

embedded in legislation, internment without trial recurred and discriminatory policing targeted CNR communities by a Protestant, Unionist force. The emergent civil rights movement was subjected to violent opposition from within Loyalist communities.

In August 1969, growing resistance to persistent attacks on marginalised CNR communities led to the British Army's deployment. Soldiers occupied communities, sealing the border into the Irish Republic. Within twelve months, Northern Ireland's Unionist Government introduced the Criminal Justice (Temporary Provisions) Act, a severe political riposte to demands for civil, political and economic rights. In August 1971, the conflict hardened when internment without trial of 'political' activists was reintroduced, subjecting 2,357 men and women to harsh interrogation (see McEvoy, 2001). Legitimated by 'unfettered ministerial discretion', internment became institutionalised, confirming the state's 'clear and unequivocal . . . involvement in suppressing political opposition' (Hillyard, 1987, pp. 283–4). Initially internees were held at Long Kesh Detention Centre, a re-designated Royal Air Force base.

On 30 January 1972, responding to a civil rights march in Derry, soldiers of the Parachute Regiment killed thirteen unarmed civilians, injuring many more. The Northern Ireland Parliament was suspended and UK Government direct rule imposed. Boyle et al. (1975, p. 32) conclude that the government deployed the 'full force of the British Army against the Irish Republican Army', initiating a 'new system of arrest and detention'. Within two years, male long-term imprisonment escalated from under 1% of the prison population to 23.8% (Rolston and Tomlinson, 1986). Politically affiliated male prisoners were transferred to HMP Maze, a new 800-cell single-storey prison adjacent to Long Kesh. Their strong campaign for political recognition brought 'special category status'.

In March 1976, those convicted of conflict-related offences in non-jury trials and ascribed 'special category status' were reclassified as 'ordinary' criminals forced to accept regular prison rules and to wear prison clothes. Republican prisoners refused to recognise imposed criminalisation and, clothed only in blankets, were confined to cells. Following severe beatings, their demand to reverse the criminalisation policy escalated and those 'on the blanket' smeared excrement on cell walls. The persistent 'dirty protest' coupled with harsh treatment by Unionist/Loyalist prison guards preempted hunger strikes in 1980 and 1981. Determined not to accede to prisoners' demands the Conservative Government, led by Prime Minister Margaret Thatcher, refused negotiation resulting in the deaths of ten hunger strikers (see McKeown, 2001). Despite concessions, the policy of criminalisation remained steadfast, its contradictions clear. Arrested under emergency powers, prisoners were convicted in courts without juries, their 'motivations' overtly political. They were tried and imprisoned as 'terrorists' (Hillyard, 1987).

In 1998, the UK and Irish Governments signed the Good Friday Agreement, setting a constitutional foundation for devolution of administrative powers to a democratically elected Northern Ireland Assembly (NIO, 1998). As Harvey (2003, p. 1002) states, the constitutional and legal legacy in the North required a 'complex' and 'imaginative' resolution 'between the UK and Ireland' thereby realigning 'domestic law and practice'. Prioritising human rights, the agreement focused on economic sustainability and growth; equality and social inclusion; normalisation of state security operations and practices; representative and accountable civil policing; a comprehensive review of criminal justice; disarmament of paramilitary organisations; and, most contentious, the early release of politically motivated prisoners.

The 1998 Northern Ireland (Sentences) Act established the legislative framework to release, on licence, prisoners affiliated to paramilitary organisations that had declared ceasefire (McEvoy, 2001). Between 1998 and 2007, 449 prisoners were released (Dwyer, 2007). A small group of male politically affiliated prisoners were transferred to HMP Maghaberry for 'integration' into

the general prison population. Decarcerating politically affiliated prisoners significantly reduced the maximum security prison population, resulting in the closure of HMP Maze/Long Kesh. The early release scheme demonstrated that, given a political imperative, viable alternatives to incarceration were possible.

This unprecedented initiative emphasised the state's latitude in designating prisoners' status. Internment without trial, non-jury trials in courts operating under special powers legislation, and a prison built to incarcerate politically affiliated prisoners demonstrate an implicit acceptance of political status. Yet, the defining issue precipitating the Blanket and No-Wash Protests, the hunger strikes and the deaths of ten men was the imposition of criminal status – criminalisation – on all convicted of conflict-related offences. On 21 April 1981, Bobby Sands was fifty-two days into a fatal hunger strike when Prime Minister Margaret Thatcher stated there was 'no question of granting political status' to Republican prisoners: 'crime is crime is crime' (*BBC News*, 21 April 1981). When it suited the UK Government to reconsider its position regarding criminalisation, however, it accepted the distinction, granting the early, licensed release to those convicted of conflict-related offences.

From stagnation to reform

Early release and the Long Kesh/HMP Maze closure suggested a watershed in penal reform. Transition from civil war to peace brought an Independent Commission on Policing to establish a police service 'capable of attracting and sustaining support from the community as a whole' (see *The Agreement* 1998). It initiated a broad-reaching agenda for transformation, 'rebranding' the Royal Ulster Constabulary as the Police Service of Northern Ireland (Report of the Independent Commission on Policing for Northern Ireland, 1999). No comparable review of the Northern Ireland Prison Service was commissioned. At the moment of opportunity to review the penal estate, extend amnesty to ordinary prisoners released on licence, and reduce the workforce, the malaise infecting Northern Ireland's four prisons worsened.

Its oldest prison, built in 1972, is HMP Magilligan, located on the remote North coast, accommodating low- to medium-risk sentenced male prisoners. In 1986, HMP Maghaberry was opened, holding all categories of male prisoners including those on remand alongside a relatively small group of women transferred from centuries-old Armagh Gaol's squalid conditions. Inspectors considered Maghaberry the 'most complex' and 'diverse' prison in the UK (HMCIP, 2003). Hydebank Wood Young Offenders' Centre was opened as a low-security young adult prison. In 2004, women prisoners were transferred to a block within Hydebank. With attention focused on the release of politically affiliated prisoners, managing the complexity of the remaining prison population was neglected by politicians, policy-makers and academics. It never occurred to those negotiating the early release programme that decarceration could be adapted and applied to ordinary prisoners.

The neglect persisted and, following the amnesty brokered for politically affiliated prisoners, conditions for ordinary prisoners worsened. A 2003 Maghaberry inspection emphasised the prison's extraordinary complexity, criticising serious deficiencies in identifying the distinctive needs of women held within a male prison (HMCIP, 2003; Moore and Scraton, 2014). Its 'duty of care' towards 'women and girls' was seriously compromised (Scraton and Moore, 2005). Inspections exposed serious deficiencies in policies, strategies and procedures (CPT, 2004; HMCIP/ CJINI, 2005; Gil-Robles, 2005) and institutionalised failure to make 'urgent progress regarding self-harm, substance use, mental ill-health, therapeutic provision, counselling, occupational therapy and constructive work and educational opportunities' (Scraton and Moore, 2007, p. 127).

In 2008, a Maghaberry inspection condemned 'overuse of handcuffs' during transportation, poor induction practices, routine strip-searching, 'excessive' adjudication punishments, bullying, 'little purposeful activity', 'unpredictable cancellations of association', minimal access to outdoor activity and inadequate development of effective resettlement policies (HMCIP/CJINI, 2008, pp. 5–6). A year later, they emphasised the diverse needs of Maghaberry's population, criticising the intransigence of the regime (HMCIP/CJINI, 2009). While operating as 'one of the most expensive prisons in the United Kingdom', it was seriously deficient – a 'situation that cannot be permitted to continue' (HMCIP/CJINI, 2009, p. vii). A follow-up inspection emphasised the 'excessive use of cellular confinement as a punishment', with guards 'negative and punitive' and mental healthcare 'under-resourced' (HMCIP/CJINI, 2011, pp. 5–6).

In 2010, justice and policing matters were devolved from the UK Government to the Northern Ireland Assembly. Consistent with 'international obligations', a review of 'detention, management and oversight of all prisons' was initiated (Hillsborough Agreement, 2010, para. 7). An independent Prison Review Team (PRT) was appointed. Following extensive consultations, it prioritised the replacement of Magilligan, condemning its 'accommodation and infrastructure not fit for purpose' and recommending the 'development of a strategy' and a 'discrete facility' for women (PRT, 2011a, p. 76). Serious inadequacies could not be addressed 'without tackling the underlying issues – management, leadership, vision, objectives, culture – in the prison system' (PRT, 2011a, p. 2). It reaffirmed the structural deficiencies in management and regime previously identified by the inspectorates. The prison service was 'demoralised and dysfunctional', 'defensive' and resistant to change (PRT, 2011a, p. 4). A decade on from the release of politically affiliated prisoners, an opportunity for significant penal reform, 'justice reinvestment' in community initiatives and decarceration had been lost (PRT, 2011a, p. 22).

Despite its progressive language, the PRT's position remained reformist. It recommended a 'properly resourced change programme' across all prisons incorporating progressive regimes for most prisoners (PRT 2011a, pp. 12–13). The die was cast. The role of imprisonment was reaffirmed; its function to operate 'progressive' and 'effective' regimes was aligned with the World Health Organisation's four 'healthy prison' tests: *safety*; *respect and dignity*; *purposeful activity*; *resettlement* (World Health Organisation, 1999). Change would rest on three operational pillars: justice and fairness; security and safety; and protection and promotion of respect for human dignity compliant with human rights standards. Prisons could be reimagined as places of 'behaviour' and 'life' change, of 'reparation' for 'harm' caused and of 'resettlement'.

Coated in the veneer of liberal reformism, the PRT's initiatives and priorities championed an 'ideal' of progressive incarceration. Its 'strategy' for 'change' was predicated on humanising accommodation; providing work and education opportunities; developing offending behaviour programmes; retraining managers, guards and ancillary staff; assessing risks and needs; and building 'positive' relations with external agencies. Having railed against operational policies, weak management and working practices underpinning stagnation within Northern Ireland's prisons, the PRT believed that jails could guarantee safety and respect and stimulate empathetic environments where prisoners could prepare for resettlement. Despite hearing evidence to the contrary, it failed to recognise that the notion of 'healthy prison' is an oxymoron. Further, that incarceration – the removal of liberty, the withdrawal from community and the imposition of regime – dislocates the person and induces mental ill health while compounding community tensions.

Responding to the PRT, the Prison Service accepted that its policies and practices were deficient, reflecting and perpetuating outmoded 'wrong behaviours, attitudes and values'. Wide-ranging reforms would ensure 'safe, decent and secure custody' alongside 'prisoner engagement' prioritising rehabilitation (Director General, 2011, pp. 4–6). Voluntary redundancies, new recruitment and training programmes would tackle institutional malaise, end resistance to

cultural change and fulfil the necessary duty of care. Subsequently, the PRT criticised lack of progress in addressing 'endemic and systemic problems' and the Prison Officers' Association's resistance to change (PRT, 2011b, pp. 5–6). Affirming priorities regarding 'human rights standards and ethical values' and the 'rehabilitation of prisoners' (PRT, 2011b, p. 9), it cemented a reformist agenda while ignoring submissions emphasising decarceration and community-based alternatives.

Simultaneously, independent inspections at Maghaberry and Hydebank Wood revealed the extent of the malaise. Maghaberry had failed to 'provide a sufficiently safe environment' for prisoners, and three of the four tests of a 'healthy prison' – safety, respect and purposeful activity – were assessed 'insufficient' (CJINI/HMCIP, 2012). Most prisoners shared cramped one-person cells, had no work opportunities and were locked for twenty hours a day. At Hydebank Wood, inspectors listed a catalogue of failure regarding deaths in custody, self-harm, care for the most vulnerable, poor regimes, reactive security, minimal work opportunities, staff disengagement and disrespect for prisoners. A newly formed 'independent' Prison Oversight Group heavily criticised the collapse of relationships among prison guards, governors, managers and the director of the prison service. The PRT's imperative for immediate and substantial reform within a human rights agenda had become a fading aspiration, replaced by rhetoric of humane containment.

In 2015, Maghaberry's independent monitoring board condemned accommodation as 'unfit for purpose', housing a culture dominated by boredom and drug-taking. Drugs, illicit and prescription, fuelled bullying and self-harm. Mental health provision was seriously deficient, worsened by a healthcare staffing crisis. Life-sentence prisoners faced years of dead time without work opportunities or education provision. Remand prisoners were locked twenty-three hours each day, generating and exacerbating mental ill health. Depression prevailed, with prisoners locked two to a cell in unhygienic conditions. Vulnerable, 'at-risk' prisoners were not monitored appropriately.

This condemnation preceded a damning assessment of Maghaberry's management, conditions and regime by the independent inspectorates (HMCIP/CJINI, 2015). The Chief Inspector of Prisons stated: 'This is one of the worst prisons I have ever seen and the most dangerous I have been into. It feels a bit like going back in time. Dickens could write about Maghaberry without batting an eyelid'. Having conducted over forty inspections throughout England and Wales, his fierce comments were echoed by Northern Ireland's Chief Criminal Justice Inspector. The prison was unsafe, unstable and trapped in a downward spiral. Maghaberry had descended into crisis.

Return inspections found that conditions had worsened, particularly for prisoners with 'learning difficulties, mental health issues, addiction problems and personality disorders' (HMCIP/CJINI, 2016a, p. 5). Mental ill health remained untreated; bullying and intimidation were rife, fuelled by access to illegal and prescription drugs. With no work available, most prisoners were locked throughout the day. A third inspection concluded that prisoner safety had been compromised and fundamental changes, envisaged by the PRT five years earlier, required urgent implementation (HMCIP/CJINI, 2016b).

This contemporary overview of prisons in the North of Ireland illustrates the contradictions inherent in penal reformism. As those incarcerated for conflict-related offences were released under licence, their political status, previously removed under the policy of criminalisation, was restored. Yet, applying decarceration to the 'ordinary' prison population was never considered. In fact, the daily prison population increased markedly, reaching a high point in 2014. As conditions for ordinary prisoners worsened, the penal estate's neglect persisted and only marginal change was achieved. 'Reimagining' prisons as 'healthy', personally transformative institutions

geared to positive resettlement, walled in from prisoners' communities, was exposed as rhetoric in a jurisdiction where restricted penal abolition had been negotiated successfully.

The abject failure of penal reform

In transitioning from civil war to peace in the North of Ireland, the introduction of human rights–compliant principles and a methodology for application were political imperatives. Yet submissions to the PRT, successive inspection reports and independent research revealed systemic denial of prisoners' rights and institutionalised resistance to addressing this deficit. While state inspections monitor the operational management of penal regimes, they do not address compliance with international human rights standards. Rooted in liberal reformism, they are informed by quasi-religious notions of redemption and absolution. They reflect a liberal reformist notion that humane containment can transform the incarcerated mind, rehabilitate the incarcerated person and reintegrate the incarcerated body. This reflects a simplistic retributive binary pitting 'the law-breaking criminal' against 'the law-abiding citizen', cementing 'community payback' into popular discourse. Alongside retribution is the prison sentence as a deterrent. Incapacitation, therefore, is inherently and popularly punitive.

Yet penal reformists remain convinced that individuals can emerge from the harsh, often brutal, reality of prisons to 'reintegrate' into the communities from where they came. Retribution, deterrence, reform are distinct objectives, their implicit contradictions reflected in high rates of recidivism. Consistently, the regulatory politics of lawmaking and law enforcement neglect the contextual significance of prevailing social, political and economic conditions and ideological representations of crime. Historically rooted, societally specific and personally experienced, the twin processes of selective criminalisation and incarceration cannot be stripped of the determining contexts through which the process of punishment is selectively administered. The circle cannot be squared. While prison walls, fences and razor wire keep captives in, they protect prisons and their administration from public scrutiny.

Within most advanced democratic societies, incarceration is the ultimate public expression of condemnation, the primary location of punishment and the deliverer of retribution. All aspects of the lives of the imprisoned – sleep, exercise, work, meals, visits, sanitation, healthcare, contact, family – are determined by others. Time has no meaning beyond daily routine subject to change on a jailer's whim. To gain 'privileges' associated with classifications imposed on prisoners, regime compliance is imperative. Meaningful family access is traded as an inducement rather than a right. Visitors, including children, are demeaned by body searches and intrusive observation. Beyond the prison gates, the socioeconomic impact of penal regimes on families and communities is an inestimable consequence of incarceration. As this chapter illustrates, even when independent review bodies, inspection teams and monitoring boards reveal systemic failures and abuses of power, regimes remain ambivalent to criticism and obstructive to change.

The assumption is that in devising a calculus for inspection, applied through independent monitoring agencies, operational regimes can be humanised. This underscores the liberal reformist proposition that sites of incarceration can deliver 'healthy', 'humanitarian' environments safeguarding prisoners' mental and physical well-being while progressing towards 'rehabilitation'. Yet institutionalised authoritarianism removes the capacity for prisoners' self-determination. The routine imposition of nonnegotiable, institutional authority denies rights with impunity. Violations, often considered minor by monitors or inspectors yet profoundly significant to prisoners, are masked by outward-facing 'mission statements, glossy brochures and internet virtual tours' proclaiming rights-compliant regimes (McCulloch and Scraton, 2009, p. 11).

The challenge for critical prison research is to expose abuses of power, to foreground prisoners' best interests and to hold institutions to account without legitimating the contextual politics and practices of incarceration. This is problematic not least because the state's confiscation of an individual's liberty, supposedly proportionate to the seriousness of the 'criminal act', is justified as a rational calculation. The liberal reformist ideal, therefore, proposes that incarceration predicated on humanitarian principles and administered by responsive, compassionate guards, managers and service providers can 'transform and 'rehabilitate' prisoners within 'healthy' environments. It underpins the Prison Reform Team's proposal that 'desistance' from crime can be accomplished via fair, humane and respectful relationships between guards and prisoners. While not dismissing humanitarian ideals from which progressive initiatives emerge, resistance to progressive reform remains entrenched at societal and institutional levels.

Those marginalised economically and disenfranchised politically experience unsafe housing, underfunded education, poor physical and mental health, high unemployment and intergenerational poverty aligned with alcohol and drug dependency and incarceration. This is the ground on which the school-to-prison pipeline is laid. While the 'promised land' of wealth and opportunity is lauded on billboards and pseudo-reality television shows, those disenfranchised, economically marginalised and socially excluded queue at community food banks and hospital emergency departments, internalising their fate as self-inflicted. The path to incarceration can only be diverted by establishing a 'constellation of alternative strategies and institutions', necessitating a 'revitalisation of education at all levels, a health system that provides free physical and mental health care to all, and a justice system based on reparation and reconciliation rather than retribution and vengeance' (Davis, 2003, p. 107).

The PRT aligns with Davis insofar as she demanded 'humane, habitable environments for people in prison' (Davis, 2003, p. 103). However, it offers a reform agenda directed exclusively towards alleviating immediate, entrenched privations endured by prisoners and their families. Davis goes further, asserting that prison reform and prisoners' rights are objectives to be realised, 'without bolstering the permanence of the prison system'. Thus, penal reformism is limited by policies and regimes 'governed by material structures, cultural sensibilities and mentalities' that prioritise 'punishment, security and discipline' and tightly control 'the extent to which the content of a regime can be changed' (Hannah-Moffat, 2002, pp. 203–204). Its potential, therefore, remains restricted to formulaic reviews, inspections and monitoring – processes limited to establishing and applying criteria for humane containment.

The enduring power of the label

Over half a century has passed since the consolidation of a complex debate, central to critical criminological analysis: 'deviance is not a quality of the act' but 'behaviour that people so label' (Becker, 1963, p. 9). The significance of 'labelling' is its relationship to power, ascribing acts criminal status in definition, circumstances, policing and punishment (Christie, 1998). It is the material context of power that necessitates exploration of the ideological framework through which acts, individuals and/or groups become criminalised, revealing and reflecting historical changes in the social and political order within a jurisdiction at any given moment. This is clearly evident in reflecting on the politics of criminalisation in the North of Ireland. While prisoners' resistance achieved notable concessions, the policy of criminalisation remained until it was politically expedient to concede ground on early release – a policy change resting on the shifting sands of a negotiated peace settlement. Releasing politically affiliated prisoners *en masse* demonstrates how definitional borders of 'crime' and 'punishment' can be redrawn when politically expedient.

Lawmaking and, by definition, lawbreaking occur within historical, political and economic contexts. In 'war', acts involving severe interpersonal violence claim legitimacy because they are perpetrated in pursuit of a political cause to realise a common good. Yet acts committed as a direct consequence of economic marginalisation, social exclusion and alienation are condemned as asocial, harming the common good. Attributing 'criminality' to certain acts and their perpetrators is 'a process' dependent on 'who is doing the labelling' (Hall and Scraton, 1981, p. 488). Critical social research situates individual experiences and social interaction within prevailing interlocking structural inequalities, 'evident at the cutting edge of subjugation, exploitation and violence' in personal and shared experiences of poverty, misogyny, homophobia, racism, sectarianism and 'child-hate'. Yet they are only 'fully comprehended' by 'location in the determining contexts of structure' (Scraton, 2007, p. 236).

Decarceration rarely receives political oxygen, especially in a punitive climate demanding more prisons and longer sentences. To achieve penal change beyond the reformism of self-proclaimed humanitarian incarceration necessitates a shift in political will alongside comprehension of the endemic failures of criminalisation and punishment. Significant reduction in the prison population within a broader commitment to decriminalisation requires reinvestment in community-based initiatives challenging poverty, social exclusion, poor housing and inadequate healthcare. It is no coincidence that the use of dependency-inducing drugs, prescribed or illegal, and low-cost alcohol has increased within marginalised communities where hopelessness prevails.

Hopelessness is neither imagined nor self-induced but the lived, tangible endurance of externally imposed material circumstances. Prison has become the retrogressive consequence of a pipeline sucking the lifeblood from noble working-class communities left destitute and exploited by economies in which their labour is no longer required, compounded by political ambivalence regarding poverty and dislocation generated by excesses of wealthy adventurists. It is within these communities that economic investment should align with justice reinvestment. The latter emphasises justice as a social and economic right rather than a process through which the poor and the low-paid, trapped in an ever-increasing 'underclass', are fed and sheltered by under-resourced state agencies and valiant non-statutory agencies dependant on shoestring, insecure budgets.

Following the Good Friday/Belfast Agreement, international audiences observed with incredulity as politically affiliated prisoners convicted of serious crimes emerged from jail on licence, assessed as no longer a threat to society. 'Early release' was a politically expedient act of decarceration to achieve an end to war and establish lasting peace. In such exceptional circumstances, given political will and community support, alternatives to prison could be realised. Reflecting on the structural dynamics of inequality that contextualise lawbreaking, it is not beyond the sociological imagination to envisage constructive alternatives to the rhetoric of bigger, increasingly punitive jails based on discredited claims for retribution and deterrence. It is only through investment in marginalised communities, their housing, healthcare and welfare, that the school-to-prison pipeline can be severed.

Acknowledgements

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