Pace Law Review

Volume 24
Issue 2 *Spring 2004*
Prison Reform Revisited: The Unfinished Agenda

Article 21

4-1-2004

Prison Reform Efforts around the World: The Role of Prison Administrators

Andrew Coyle

Follow this and additional works at: http://digitalcommons.pace.edu/plr

Recommended Citation
Andrew Coyle, *Prison Reform Efforts around the World: The Role of Prison Administrators*, 24 Pace L. Rev. 825 (2004)
Available at: http://digitalcommons.pace.edu/plr/vol24/iss2/21

This Article is brought to you for free and open access by the School of Law at DigitalCommons@Pace. It has been accepted for inclusion in Pace Law Review by an authorized administrator of DigitalCommons@Pace. For more information, please contact cpittson@law.pace.edu.

Prison Reform Efforts Around the World: The Role of Prison Administrators

Andrew Coyle PhD*

For twenty-five years I worked as a prison warden in a variety of prisons in Scotland and England. I was in charge of maximum-security prisons, which held prisoners who were considered to be among the most dangerous and difficult to manage in the country, many of them serving long sentences. I was also in charge of what you would know in the United States as large jails, which held a variety of prisoners, some awaiting trial, some serving short sentences, others who had recently received long sentences and were waiting transfer to other prisons. I tell you that in order to reassure you that my view on prison reform and the role which prison administrators have to play in it comes with a degree of hard won knowledge based on experience.

Since 1997 I have been Director of the International Centre for Prison Studies (ICPS) in King's College of the University of London. In the course of our work at ICPS we undertake projects in prison systems in many regions of the world, invariably within the context of prison management and human rights. Currently we are working in Eastern and Western Europe, in Africa and in Latin America. All of this work allows us to observe how imprisonment is used in different countries and cultures. Throughout the world there are over nine million people in prison.[1] Half of them are in three countries: China, Russia and the United States.[2] Prison rates are usually quoted per

* Andrew Coyle is the Director of the International Centre for Prison Studies at Kings College, University of London, and a Professor of Prison Studies. He is an expert on penal matter for the United Nations and the Council of Europe, including its Committee for the Prevention of Torture and has visited prisons in forty-five countries. He has a Ph.D. in criminology from the Faculty of Law at the University of Edinburgh and has written extensively on criminal justice and penal issues.

1. ROY WALMSLEY, WORLD PRISON POPULATION LIST, FINDINGS 234 1 (2003), *available at* http://www.homeoffice.gov.uk/rds/pdfs2/r234.pdf.

2. *Id.*

100,000 of the total population. On that basis, the average rate of imprisonment in the world is about 140. In Western Europe the average is about 100, with England and Wales at the top of the league at 144.[3] In terms of rates of imprisonment, one country stands apart from all others. The United States alone has an imprisonment rate of over 700 per 100,000 of its population.[4]

Five Groups

In respect of their use of imprisonment, it is possible to divide the countries of the world into five groups. The first includes many developing countries, most of them formerly dominated by colonial powers. Many of these have no indigenous concept of imprisonment. The notion of taking a large number of able bodied young men, who should be contributing to the economic and social good of the nation, and depriving them of their liberty in private places, where they become a burden on society and give little or no satisfaction to the victims of crime, is seen as very odd in these cultures.[5] In many of these countries prison conditions are appalling and governments do not have the resources to make them decent and humane places.[6] In a number of these countries one can find some of the most innovative ideas for developing other, more inclusive forms of justice.

In prisons in the second group of countries one finds a complete breakdown in good order. Prisons are places of violence and abuse. The prisoners, or rather some prisoners, are in control and staff only go inside the prisons in large numbers and fully armed.[7] For the majority of prisoners, the prisons are very dangerous places. Many countries in Latin America fall into this category. Yet even there one can find a realisation that this state of affairs cannot continue and there is a determination to change and to introduce international standards.

---

3. *Id.*

4. *Id.*

5. ISAAC NGUEMA, *Forward* to PRISON CONDITIONS IN AFRICA: REPORT OF A PAN-AFRICAN SEMINAR IN KAMPALA, UGANDA 5 (1997) [hereinafter PRISON CONDITIONS IN AFRICA].

6. *See, e.g.*, THE PRISONS UPDATE (Found. For Human Rights, Kampala, Uganda), Jan. 2002.

7. ANDREW COYLE, MANAGING PRISONS IN A TIME OF CHANGE 35-38 (2002).

Many of the countries of the former Soviet Union in Eastern Europe and Central Asia fall into a third group. In these countries there are terrible problems with overcrowding, which in the worst situations means three prisoners having to sleep in turns in one bed, and of ill-health, with ten per cent of all prisoners suffering from active tuberculosis in Russia.[8] In the countries in this group there have been significant changes over the last five or ten years. There has been a determination to reduce the use of imprisonment, seeing excessive use of imprisonment as a negative reflection of the democratic values of society. Russia is the best example of this positive change. There it has been recognised that penal reform cannot be achieved in isolation from the rest of the criminal justice system.[9] It can only be achieved if there is political will, if there is legislative change, if the other major elements in the criminal justice process, especially the judiciary and the prosecution service, are involved in the process and if the public and the media are reassured that these changes will not threaten public safety.[10]

The fourth block of countries are those which regard prison as a place of last resort, to be used only for those who have committed the most serious crimes or who pose a major threat to public safety. This group includes most of the countries of Western Europe, with prison rates of between 39 and 100 per 100,000.[11] In these countries there is a determination that the criminal justice system should not be used to resolve social problems. It has to be recognised that even in these countries this consensus is being threatened by the way societies are responding to issues surrounding drug abuse. In some of these countries there is an increasing tendency to be drawn into what is known in the United States as the "war on drugs," using prison as a major weapon in this "war."

The final group includes those countries which actually appear to like prison. The foremost example of this group is the United States. In his presentation yesterday Judge Lasker

---

8. YURI IVANOVICH KALININ, THE RUSSIAN PENAL SYSTEM: PAST, PRESENT AND FUTURE 23 (2002) *available at* http://www.kcl.ac.uk/depsta/rel/icps/russian_penal_system.pdf.

9. *Id.* at 7.

10. *See id.*

11. WALMSLEY, *supra* note 1, at 5.

talked about "America's love affair with imprisonment."[12] Increasingly in this group of countries prison is being used for reasons not directly linked with crime, nor with the reduction of crime, nor even with the punishment of crime. Instead it is linked to control of marginalised and impoverished groups in society.[13] The prison is being used to deal with a plethora of social problems, which properly should not come within the ambit of the criminal justice system.

Correctional Personnel

Let me now turn to the issue of prison reform and correctional personnel. It takes a rather unusual person to spend a long period of his professional life locking up other human beings. I always rationalised my own position by concluding that I was uneasy at what I did for a living and, if ever I ceased to be uneasy, that would be the time to move on. Yesterday it occurred to me that this symbiosis must be shared by many senior prison personnel as I heard Commissioner Martin Horn of the New York City Department of Corrections tell us, "Prison stinks." For years when people whom I met in a social setting asked me what I did, I would find all sorts of ways of not saying, "I lock people up," I might say, "I reform people" or "I rehabilitate people." It was this sort of mental schizophrenia on the part of those who worked within the system that led many years ago to the introduction of the word "corrections" as an alternative to "prisons" in the United States, although not interestingly enough in the name of the Federal Bureau of Prisons. The use of this euphemism has now spread to a number of other countries, along with the description of those held there as "inmates" rather than "prisoners."

I could use all the time available to me in telling you stories about dedicated prison professionals who have given their lives, sometimes literally, in working to help prisoners. I could tell you about the young prison doctor whom I met in the late 1990's working in a colony for prisoners with tuberculosis. He had a broken pair of shoes with no socks. It was obvious even to me,

12. Honorable Morris E. Lasker, *Prison Reform Revisited: The Unfinished Agenda*, 24 PACE L. REV. 427 (2004).

13. MARC MAUER, THE SENTENCING PROJECT, RACE TO INCARCERATE (2001).

an outsider who was with him for less than a day, that he was wearing himself out helping the sick prisoners. "Why do you do this?" I asked him. "Somebody has to," he replied, "and I'm a doctor." I returned to that prison colony a year later and he was not there. I inquired after him, to be told that he himself had contracted tuberculosis. I could tell you about the prison director whom Al Bronstein and I met in the main pre-trial prison in Moscow when we were among the first group of Westerners to be allowed to visit a Russian prison. He spent virtually all of his day on the telephone cajoling and threatening suppliers to provide potatoes and other basic foodstuffs to the prison, even though they knew they were unlikely to be paid. He told us he had to decide between paying the electricity bill, in order to ensure a continuing supply, or paying his staff. Or I could tell you about the Director General in England who has spoken out clearly against overuse of prison, about excessive sentences and about the need for decency and humanity in his prisons.[14]

A number of people in this room have devoted their lives to making prisons and jails more decent and more humane. Throughout the world and throughout history there have always been such people. But they tend to be beacons, whose light shines for a moment or even a decade and then disappears. Overall, the picture in prisons is quite different. Prison staff around the world are generally poorly paid, badly trained and have little respect in their communities.[15]

What is required is a concerted effort to improve the professional knowledge of prison staff, to enhance their professional competence and to increase their professional confidence. They need to be helped to understand that the maintenance of security and good order does not imply the need for brutality and inhumanity; that genuinely well-ordered prisons are those which are decent and humane, for staff as well as for prisoners. That is the task we have set ourselves in the International Centre for Prison Studies and why we have recently produced the handbook on *A Human Rights Approach to Prison Manage-*

14. *See* Nigel Morris, *Phil Wheatley: "We're Solving Problems, Not Leaving Grievances to Run" The Monday Interview: Director General of the Prison Service*, INDEPENDENT, Dec. 1, 2003, at 13.

15. COYLE, *supra* note 7, at 37.

ment.[16] This practical handbook shows that it is possible to take all aspects of the daily operation of prisons and to relate them to the international standards which have been agreed by almost all countries through the mechanism of the United Nations. This handbook has been translated into ten languages and we have recently had discussions with the American Correctional Association about how to disseminate it in the United States.

The Need For an Ethical Context

Let me comment now on the discussion which we heard yesterday, about the increasing bureaucratisation of prison management. There was a suggestion that an unforeseen consequence of litigation over the last forty or more years, which was intended to force correctional administrators to improve conditions in prison, has been that those same administrators have responded by becoming more sophisticated in their management techniques. The extremism and individualism which were a feature of how many prisons were run a generation ago are very rare now. They have been replaced by a relatively sophisticated bureaucracy, which makes sure that proper procedures are in place for all eventualities.[17] This can be a double-edged sword.

In many prison systems there has been in recent years an increased emphasis on managerialism, with its key performance indicators, the need to deliver targets and to meet auditing requirements.[18] In other words, there has been an increasing focus on process, that is how things are being done, rather than on outcome, that is what is being done. It is important never to lose sight of the fact that in the world of the prison efficient management is never enough. If one is doing the wrong thing at the outset, then efficient management merely means that one will end up doing the wrong thing more efficiently. It is essential that the management of prisons should be carried out within an ethical context. The first question to be asked always

16. ANDREW COYLE, A HUMAN RIGHTS APPROACH TO PRISON MANAGEMENT: HANDBOOK FOR PRISON STAFF (2002).

17. *See* COYLE, *supra* note 7.

18. *See* DAVID GARLAND, THE CULTURE OF CONTROL: CRIME AND SOCIAL ORDER IN CONTEMPORARY SOCIETY 188-92 (2001).

is, "Is this right?" We should never be afraid to ask that question. When we come later to discuss what the future might hold for penal reform in the United States, I suggest that you may want to keep this in mind.

A tremendous amount has been achieved in this country over the last forty or fifty years by asking the question, "Is it lawful?" Perhaps there should be an additional question from now, "Is it right?" In the United States, the land of the free, is it right that there should be over two million men, women and children in prison? Is it right that in states such as Texas[19] and Louisiana[20] and in Washington D.C.[21] one per cent of the entire population should be in prison? Is it right that over more than twenty thousand prisoners should be held in virtual isolation in what are called supermax conditions?[22]

A Narrow Role for Criminal Justice

These are questions for prison administrators, but not only for them. They are also questions for judges and prosecutors, for legislators and for the public. They are questions which take us far beyond the remit of criminal justice. Over the last generation we have allowed criminal justice to expand into areas where it has no locus. We seem to have forgotten that criminal justice systems can be used to underpin and to help support the values of a society but they cannot and should not be used as a substitute for them. It is also worth remembering that there is little evidence from anywhere in the world that levels of imprisonment, whether high or low, have any influence on levels of crime.

That was an issue which was in the minds of the heads of prison administrations from all Council of Europe member

19. International Centre for Prison Studies, *Prison Brief for Texas*, *at* http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/usa_records.php?code=44&x=27&y=3 (last visited Aug. 19, 2004).

20. International Centre for Prison Studies, *Prison Brief for Louisiana*, *at* http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/usa_records.php?code=19&x=29&y=4 (last visited Aug. 19, 2004).

21. International Centre for Prison Studies, *Prison Brief for District of Columbia*, *at* http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/usa_records.php?code=9&x=23&y=3 (last visited Aug. 19, 2004).

22. HUMAN RIGHTS WATCH, OUT OF SIGHT: SUPER-MAXIMUM SECURITY CONFINEMENT IN THE UNITED STATES (2000). *available at* http://www.hrw.org/reports/2000/supermax/.

states, forty-five countries stretching from Lisbon on the Atlantic Ocean to Vladivostok on the Pacific, when they met in Strasbourg in November 2002. One of the issues which they discussed was prison overcrowding and how to deal with it. None of these senior prison administrators advocated the solution of building more prisons.[23] Although they did not say so directly, they would have agreed with the dictum of Sir Alexander Paterson, a famous English Prison Commissioner in the early 20th century. He was a man of many aphorisms and one of them was, "Wherever prisons are built, the courts will fill them."[24]

In their final communiqué the heads of the prison administrations noted that levels of imprisonment rarely have anything to do with levels of crime.[25] Instead, they are a matter of political and public choice. They suggested that a society could choose to have a high or a low level of imprisonment depending on what sort of society it wished to be. Remember, these men and women were not academics in ivory towers or civil libertarians; they were senior prison administrators.

Let me end with a quotation from William Omaria, who was Minister of the Interior in Uganda in 1996 when an amazing conference took place in Kampala on the subject of penal reform in Africa, a conference which first led me to consider that many countries in sub-Saharan Africa fall into my first group of countries in respect of their attitude to imprisonment.[26] In closing that conference, Minister Omaria said, "One day in the distant future, people will probably look back on what happens in most countries today and will wonder how we could do that to our fellow human beings in the name of justice."[27]

Our hope for the United States should be that that day will not be too long in coming.

---

23. *See* EUROPEAN COMM. ON CRIME PROBLEMS, 13TH CONFERENCE OF DIRECTORS OF PRISON ADMINISTRATION, *available at* http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Prisons_and_alternatives/Conferences/CDPA%20Actes%202002E.pdf.

24. PATERSON ON PRISONS: BEING THE COLLECTED PAPERS OF SIR ALEXANDER PATERSON 26 (S.K. Ruck ed., 1951).

25. EUROPEAN COMM. ON CRIME PROBLEMS, *supra* note 23 at 200-01.

26. *See supra* note 5.

27. William Omaria, *Afterward* to PRISON CONDITIONS IN AFRICA, *supra* note 5, at 91.