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The State of the Prisons

Crisis upon crisis

RICHARD SMITH

Crisis is a bankrupt word. We are surrounded by people shouting crisis, and we have become inured to the notion. Doctors work in a National Health Service that is said to be in crisis because of an economic crisis, and often they simply ignore the rhetoric and get on with their daily jobs. But in one part of British society, prisons, the word crisis, meaning a state in which a decisive change one way or the other is pending, may be used without hesitation or embarrassment: our prisons will either have to be reformed or explode. Mr Leon Brittan's promise last week to provide 10 600 new prison places by 1991 should help, but many will doubt that simply providing new places is enough.

The prison medical services are struggling hard at the moment to maintain a decent medical service within the crisis ridden prisons. But can you ever, as Lady Megan Bull, a former prison doctor and governor of Holloway, said to me, hope to practise good medicine in grossly overcrowded and run down prisons like Brixton, Wandsworth, or Strangeways? Quite possibly you cannot, and certainly the problems of the prison doctors are closely linked with the problems of the whole system. That is why, although this series is primarily concerned with prison health care, I am devoting one article to considering some of the broader problems.

Overcrowding

In the long term loss of direction and purpose might be the prison department's most important problem (26 November, p 1614), but overcrowding is the most acute problem. In England and Wales about 44 000 prisoners are currently locked up in accommodation intended for 38 500, and the Home Office

estimates that the figures will rise to above 48 000 before the end of the decade. Today the problem is so bad that some 500 remand prisoners are held in police cells because there is no room in the prisons. Conditions may be bad in local prisons, but they are worse in police cells, which are designed to keep prisoners only overnight, and the Home Secretary has promised that these men will be out of the police cells before Christmas. In Scotland and Northern Ireland overcrowding is not nearly such a pressing problem. Indeed, in Northern Ireland terrorist activity has declined, and the new prison that is being built in Maghaberry may prove superfluous if it continues to decline.

The problem of overcrowding has been called "serious" since 1946, when the prison population was 15 800.¹ By 1947 it was 17 100, and it has risen steadily ever since, apart from a minor hiccup when the prison officers took industrial action. The 1970s saw a wave of disorder and rioting in prisons, and prison governors wrote in a letter to the then Home Secretary, Merlyn Rees: "If the present trend continues there will be a serious loss of control" and "a probability of both staff and prisoners being killed."² Despite the May inquiry into the prisons,³ the trend has continued, and the last Home Secretary, William Whitelaw, described prison conditions as "an affront to a civilised society and a continued threat to law and order."³

CAUSES OF OVERCROWDING

Overcrowding has arisen obviously because of a mismatch between the number of prisoners and the capacity of the prisons. The number of prisoners might be assumed to have risen simply because the amount of crime has increased. But such an assumption cannot be made: nothing is simple in criminology, and the complexity of the links between the numbers of crimes committed, reported, recorded, and solved, and then the numbers of convictions, and the lengths of sentences makes the complexity of the problem of trying to unravel the factors that contribute to coronary artery disease look simple. As the Home Office Research and Planning Unit report *The British Crime Survey* puts it: "Variations over time or place in recorded

crime rates can reflect the processes by which the statistics are compiled as much as the conditions they are intended to depict."⁴ It cannot be assumed that we have more prisoners because of more crime.

What does emerge clearly, however, from a study reported in the magistrates' journal *Justice of the Peace* is that England and Wales, Scotland, and Northern Ireland all have proportionately bigger prison populations than most other European countries not because they send more people to prison but because they send them to prison for longer.⁵ Table I gives figures for some European countries taken from that article for sentenced prisoners over 21, and table II gives figures, taken from *Hansard*,⁶ for all prisoners in EEC countries. When releasing these figures the minister pointed out that "as definitions of prisons and prisoners differ between countries simple comparisons between countries are likely to be misleading."⁶ But, that problem noted, it is disturbing to find that we have so many more people in prisons than most of the other EEC countries, especially when we remember that most prisoners are "sad" or "mad" rather than bad.

TABLE I—Receptions, sentence length, and populations of prisoners over 21 in various European countries

Country	Receptions/ 100 000 population	Average sentence length (years)	Prison population/ 000 000 population
England and Wales	69	0.714	49.55
Scotland	129	0.415	46.49
Northern Ireland	60	1.377	82.33
Netherlands	127	0.136	17.23
France	19	1.3	25.18
Sweden	121	0.415	50.32
Switzerland	100	0.332	33.18

TABLE II—Prisoners per 100 000 of total population: European Community*

	Number per 100 000 of total population
Belgium (April 1980)	47
Denmark (April 1980)	62
France (March 1980)	72
Federal Republic of Germany (November 1979)	91
Republic of Ireland (April 1980)	35
Italy (April 1980)	54
Luxembourg (April 1980)	69
Netherlands (January 1980)	23
United Kingdom	
England and Wales (30 June 1980)	89
Scotland (average 1980)	94
Northern Ireland (average 1980)	162

*Figures for Greece are not available.

Effects of overcrowding

The effects of overcrowding are that in many prisons three prisoners must share a cell; table III gives figures on the numbers of prisoners living two or three to a cell.⁷ These figures inevitably mean little to those who have not seen a cell in one of our many old, local prisons—for it is the local prisons not the long term, high security, dispersal prisons that are overcrowded. But three in a cell in a prison like Brixton means that there is a double bunk and a bed in the cell and it is hardly possible for all three men to stand at once (figure). None of the cells contains a toilet or a washbasin, and at night the men must urinate or defecate into pots in front of each other. This culminates in the morning slopping out session, when the prison smells at its worst. The prisoners also eat in their cells, and in a remand prison like Brixton (remand prisoners do not work) the prisoners spend most of their days in their cells. There is an irony in the fact that it is remand prisoners (still innocent men) and prisoners serving shorter sentences in local prisons who experience the worst conditions. The reason for that, as Geoff Coggan of the National Prisoners Movement (PROP) said to me, is simply that long term prisoners would not

stand for those conditions. As it is, most riots occur in maximum security prisons.

Overcrowding inevitably has some effects on prisoners' health, but it also undermines much of the work of the prison, including that of the medical service. It is not only the buildings themselves that are designed for fewer prisoners it is the whole system. By having to struggle to cope with such large numbers the prison welfare, educational, and work services are overwhelmed.

Mr Dennis Trevelyan, then director general of the prison department, wrote in his introduction to the 1980 annual report of the department:

Conditions for prisoners, already poor in many prisons, deteriorated still further; the risk of serious disorder inevitably increased; main services ranging from power supply to the drainage, never designed to cope with such numbers, were overloaded. The prison service at all levels was driven to concentrate on crisis management which even before 1980 had absorbed so much of its energy and resources as to inhibit severely more constructive work.⁸

Mr C J Train, the new director general, strikes a more optimistic note in his introduction to the 1982 report as some refurbishment has begun.⁷ But, as table III makes clear, overcrowding has been only marginally reduced.

TABLE III—Highest numbers of inmates sleeping two or three in a cell

Year	Two or three in a cell	Of which	
		Three in a cell	Two in a cell
1971	14 450	8 238	6 212
1972	13 737	6 609	7 128
1973	12 609	4 221	8 388
1974	14 146	4 122	10 024
1975	15 640	5 298	10 342
1976	16 435	5 709	10 726
1977	15 990	4 950	11 040
1978	16 098	5 082	11 016
1979	16 585	4 833	11 752
1980	17 787	5 847	11 940
1981	16 904	5 610	11 294
1982	16 751	4 377	12 374

SOLUTIONS FOR OVERCROWDING

What can be done about overcrowding? The first option is to increase the number of prison places, and this the government is planning to do in England and Wales. It aims, Mr Leon Brittan, the Home Secretary, said at the Conservative Party conference, at providing 4800 more places in 10 new prisons and 4000 new places in existing prisons.⁹ Now it has gone further and announced that four more will be built in addition to the 10 already planned. There are many problems with such a policy: firstly, it is enormously expensive; secondly, a sort of Parkinson's law seems to dictate that prisons, no matter how many are built, will always be full and usually overcrowded; thirdly, this solution fails to recognise that many people in prison, like the mentally disordered and those with alcohol and drug problems, should not be there at all; and, fourthly, it is perhaps based on the essentially erroneous belief that prisons can do more than keep dangerous men out of the way.

The Parliamentary All Party Penal Affairs Group has suggested that rather than increasing the number of prison places a much better option is to reduce the number of prisoners.^{10 11} This can be done by diverting from prison, offenders like the mentally ill, who should not be there "in principle"; finding other punishments for the many non-dangerous petty offenders; extending bail schemes to reduce the numbers of remand prisoners; and reducing the length of sentences. One immediate flaw in this policy is that, as Dr Stephen Shaw, director of the Prison Reform Trust, points out, Britain already has more non-custodial options than many other European countries: the problem is that they are

underused. A second snag with the policy is that diverting minor offenders who are usually serving short sentences is likely to have little effect on the overall prison population, which is influenced most by the length of sentences that prisoners are serving. Few disagree that offenders who are mentally ill and who have drink and drug problems should on humanitarian grounds be kept out of prisons, but their diversion may have little effect on the overall population.

A substantial reduction in the prison population would result only if the lengths of sentences were reduced. This can be achieved either by the courts giving shorter sentences or by the prisons releasing prisoners more quickly. Governments are nervous of legislating to limit courts' powers, but Mr Brittan did in his recent announcement say that the minimum qualifying period before a prisoner could be considered for parole would be reduced from a year to six months.⁹ This is expected to reduce the prison population by 2500. Most academics who study prisons are convinced, however, that larger reductions can be achieved only by reducing the lengths of sentences meted out by the courts.¹² One way of achieving this that might be widely acceptable would be to set up sentencing commissions, which issue guidelines to establish rational and consistent sentencing. Such commissions exist in some of the American States.¹²

Prison conditions

The squalor in British prisons is greatly aggravated by the overcrowding, but even if 8000 prisoners were released tomorrow, reducing the prison population to the "right" number, many prisoners would still be living in dismal conditions. In 1975 only eight of the 55 closed prisons in England and Wales had been built as prisons since 1914, and Dartmoor was opened for prisoners from the Napoleonic wars.¹³ Many of these very old prisons are in poor shape. The chief inspector of prisons noted in his 1982 report: "A very substantial backlog of repair work exists, and . . . the number of inmate places directly threatened by building decay runs into thousands."^{14 15}

Hardly any prisoners in Britain have toilets or washbasins in their cells, and most therefore have to slop out in the morning. But in many prisons even the slopping out facilities are inadequate. The chief inspector noted that at one time in Wandsworth prison 200 men had to share four lavatory cubicles and one hot water tap.¹⁴ The conditions in prison "hospitals" I will discuss in a future article.

Curiously enough, as I went round prisons, I heard more complaints (usually from staff, it must be said) about the newer prisons than the older ones. The staff at one borstal, which contains some new buildings as well as some old ones, complained that whoever had designed the new buildings knew nothing about prisons, and I heard most complaints of all at

Holloway, which is so new that it is not even finished. Like some new housing estates, the new prison seems to have become a modern slum almost as soon as it was put up.

Costs

Although not as expensive as hospitals, prisons are expensive places to run, and, again just as in hospitals, most of the expenditure is on staff. Expenditure during the financial year 1981-2 in England and Wales was £440m, of which almost

£340m was on staff.⁷

Some of the costs of the prison service are, however, borne by other departments, as the annual report for 1982 points out, and the total cost is nearer £500m.⁷ Figures can be calculated for the cost of keeping a person in prison for a week; these naturally vary considerably with the type of prison and table IV gives some of these costs. Not surprisingly maximum security prisons are the most expensive, and the most expensive prison in Britain is the Maze, where it costs more than £460 a week for each prisoner. (This makes it the most expensive prison in Europe but for Spandau, one of the staff at the Maze joked, and costs at Spandau are likely to drop sharply in the future.)

Like costs in the Health Service, only even more so, the cost of prisons has risen very fast in the last few decades. As Rod Morgan has pointed out in *The Times*: "Since 1975 the prisoner population has risen by 174%; during the same

TABLE IV—Cost of keeping a prisoner for a week in various categories of prison

Establishments for males	£
Dispersal Prisons	412
Other closed training prisons	192
Local prisons and remand centres	181
Open prisons	141
Borstals and YP centres	191
Detention Centres	176
All female establishments	263

period the number of prison officers rose by 607%." "The prison department," he continues, "has done better for resources than any other government department." Mr Morgan calls this "an astonishing decline in staff productivity," and points out that it has been accompanied by an increase in the length of the working week (from 50½ hours in 1966 to 54 hours) and a contraction in in-service training.¹⁵

Mr Morgan's analysis perhaps ignores that prisons have always been underfunded and that conditions for prison officers after the war were not much better than for prisoners, but it does make the point that prisons can soak up money as fast as hospitals. The cost of providing a place in a new top security prison is about £50 000.

Accountability

Prisoners, despite some of them being big, strong men, are politically and legally one of the most vulnerable groups in our society. Their lives are regulated in every aspect by the prison authorities, and their contacts with the outside world are both limited and controlled. The possibilities for abuse are legion, and many of those interested in prisons are anxious that they should be more visible and accountable.

An individual prisoner can make complaints to the governor, members of the boards of visitors, and his member of parliament, or he can petition the Secretary of State. The efficacy of the internal systems of complaining to the governor or the secretary of state is unknown, but both the May Committee² and the House of Commons Expenditure Committee¹⁶ have expressed unhappiness with it. Nor is much known about the effectiveness of the system of complaining to members of boards of visitors.¹⁷ On paper, the system of boards of visitors, whereby about a dozen local citizens can have access to any part of a prison at any time, seems impressive, but again there is a worry that the system is not awfully effective. One problem is that members of boards of visitors take part in disciplinary hearings as well as in inspecting prisons and receiving prisoners' complaints, and these functions do not go easily together. Another problem is that these often middle class, middle aged citizens may experience problems both in empathising with the prisoners and in understanding the ways of the prison.

Although it is often said that "the rule of law stops at the prison gates," prisoners can take court action about prison problems. But in Britain courts have not been enthusiastic about interfering in prison matters. In the United States, in contrast, court actions have led to great improvements in the prison systems. The court actions, many of which have been over medical matters, have come about because various bodies, including the American Medical Association, have produced minimum standards for various prison activities, and prisoners have been quick to sue those prisons that do not meet the standards. No such minimum standards have been set here, but the prison department is said to be in the process of producing some. It may be slow in doing so because once it has produced them it will presumably have to abide by them.

When it comes to inspection of prisons rather than dealing with individual prisoners' complaints, the boards of visitors also have a part to play. But again they are limited in their ability both to make useful inspections and to make any changes happen as a result. Before the May Inquiry there was in addition an internal inspection system. The May Committee, however, decided that the whole system was a little too cosy and recommended that an independent inspectorate be set up. The inspectorate was to be independent in that it was not to be part of the prison department, but it was still to be part of the Home Office, reporting directly to the Home Secretary. This inspectorate has now been set up and has produced two annual reports.

The independence of the inspectorate is questionable not only because it remains part of the Home Office but also because most of the inspector's staff come from the prison department, and some of them are going to return there. The chief inspector himself, Sir James Hennessy, is a retired diplomat. The problem with inspecting prisons is that if you are too much of an outsider then you are barely capable of understanding what is going on but if you are too much of an insider then you are unwilling to be too critical. Sir James is confident that the inspectorate has the balance right and he points to the trenchant criticisms that have been made as a result of its inspections. Many of these criticisms are, however, music to the ears of the prison authorities because they elaborate on the appalling conditions and at least imply that more resources are necessary. But it is too early to make any judgment on the efficacy of the inspectorate, particularly as there has been such a turnover of staff.

Still more problems

This brief view of the problems of the prison service has, I hope, at least illustrated that they are many and profound. But there are others, which, although I do not have space to discuss, I want to list. Industrial relations are an acute problem, and many prison critics think that the prison officers, through the powerful Prison Officers' Association, have too much say in the running of the prisons. The problems of security and controlling the prisoners are close to the heart of the prison authorities, but—the recent Maze escape apart—this is one area where authorities have been quite successful. Other important and pressing problems are finding enough work for the prisoners, particularly during the recession, maintaining and improving educational facilities, and encouraging good race relations within a system in which many of the prisoners and virtually none of the officers are black.

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A patient aged 60 who had a right sided hemiplegia this summer noticed during the hot weather that the right arm and right leg tanned considerably more than the left side. Is there any reason for this?

There seems to be no obvious reason for this interesting observation. Ipsilateral suntanning in a person with hemiparesis does not seem to be known to either neurologists or dermatologists. Suntanning of the skin is generally regarded as an acute postinflammatory "peripheral" response—that is, one having no established connection with the central nervous system—and it is difficult to see how increased suntanning of the skin on a hemiplegic side could be connected with local changes in the skin such as temperature, sweating, and vascularity. I consulted the director of a regional neurological rehabilitation unit whether unilateral suntanning in hemiparetic patients had been seen in her patients this summer. But doctors, therapists, and nurses all denied noting any such phenomenon. This must therefore have been a chance happening. It was also suggested that the immobility of the paralysed side might have led to that part of the body surface receiving a more steady exposure to sunlight compared with the normal side, which in moving around would receive an intermittent exposure. I understand that the patient was receiving Moduretic, a drug containing hydrochlorothiazide, a known photosensitizer, and this might contribute to the pigmentation.—I A MAGNUS, professor of photobiology, London.