

Crime and Prisons

Tough on Crime or Tough on Criminals?

While it may be difficult to predict the outcome of the forthcoming General Election, it is somewhat easier to make accurate predictions about the issues that will surface as the election campaign unfolds. Crime will almost certainly feature prominently and we can safely expect that the political parties will compete with one another to prove to the voters that it is they who will be the toughest on crime.

Yet in truth there is little reason to believe that any party claiming to be tough on crime is serious. If previous experience is anything to go by, the proposals in relation to crime will almost certainly *not* include the kinds of policies that evidence-based research tells us would actually reduce the incidence of crime. Instead, the political parties will put forward proposals that are framed to appear tough on crime when in reality they are only *tough on criminals*. But being *tough on crime* is an entirely different matter. In fact, being tough on criminals can often mean being soft on crime.

Breaking the Cycle of Illogical Policy Formulation

Most strategies favoured by politicians seeking votes are actually either ineffective or counterproductive in the effort to control crime. Since they do not address the causes of offender behaviour, they invariably fail, and so new measures towards 'control' are constantly invoked. In the last ten years, we have seen more power and resources for the Gardaí (a doubling of resources to €1.25 billion), tougher legislation, restrictions on the right to bail, mandatory sentences, legislation to reduce the rights of the offender, and increased prison places. Regrettably, each new measure has had little effect on the behaviour it was intended to control, and so there are new calls and new promises for yet further control measures. For example, the Public Order Act, 1994 was introduced to deal with behaviour in public places which caused offence and annoyance to members of the public. It didn't achieve the aim of making our streets safer, so the Public Order Act 2003 was introduced. That didn't work either, so in 2007 legislation providing for Anti-Social Behaviour Orders (ASBOs) became operative, despite much evidence that such measures have had limited effect in other jurisdictions.

Prison Doesn't Work

Characteristic of the Irish policy response to crime is an enthusiasm for rushing ahead with measures without considering the available evidence on the likely

outcomes and cost-effectiveness of such proposals. In short, policy is not evidence-led. Furthermore, there appears to be an unwillingness to abandon policy directions when these are manifestly not working. The central example of this tendency working itself out is the continuing emphasis on choosing, from among the range of possible responses, prison as the penalty for crime. Between 1996 and 2006, the prison population increased by 1,000. For many years, studies and anecdotal evidence have suggested that prison does not work. In December 2006, the report of the first large-scale study in Ireland on released prisoners was published by the Institute of Criminology, UCD. Based on a survey of almost 20,000 people released from prison, the study revealed that more than one in four was back behind bars within twelve months, and almost half within four years.¹

Despite the evidence of prison's limited value in addressing crime, the deeply-rooted bias in favour of imprisonment continues – even in the face of the colossal €90,900 annual cost of keeping a person in custody. The scale of the distortion in the response to crime can be seen in the expenditure on prisons relative to other options. To take just one example: in 2003, the total budget for the Probation Service was €40 million; the budget for prison officers' overtime was €60 million. On their stretched budget, the Probation Service staff, numbering around 400, supervise about 6,000 offenders. In comparison, 3,200 Prison Service personnel are employed to oversee the 3,200 prisoners held at any one time (or the approximately 9,000 people held in prison over the course of a year).²

Contrary to public opinion, prison is not reserved for the most serious or violent offenders. In fact, 85 per cent of those sent to prison in 2005 were convicted of non-violent offences; 39 per cent of those incarcerated were imprisoned for three months or less. In spite of the enormous cost of imprisonment and the evidence that it is of limited effect, current policy proposals include expanding the number of prison places by around 1,000, bringing the total close to 4,500. Yet few questions have been asked about the need for these extra places. Moreover, few questions have been asked about the appropriateness or desirability of using prisons to detain up to 900 people annually as part of administering immigration controls.

But perhaps the central question that politicians and the public need to ask is: 'What do we want prisoners to be like when they leave prison?' Most reasonable answers to this question will cluster around a view that people ought to leave prison less likely to commit crime than they were when they entered prison. But beyond this objective, we need to question if sending people to prison is the correct course of action in the first place. In considering the use of custodial punishment, we need to give much more weight to the likelihood that the prison system will not be best placed to address the problems in the offender's life that contribute to a criminal lifestyle. Perhaps we need to broaden the question and ask: 'What do we want offenders to be like after they come into contact with the criminal justice system?' If the answer here is also that they be less likely to commit crime, then we need to look at how the system takes account of the personal and social characteristics of offenders. In short, the punishment needs not only to fit the crime but to fit the criminal.

Underlying Problems – Towards More Effective Solutions

Consider that most offenders are young males, addicted to drugs, with little or no record of employment, and low levels of literacy, that most have had traumatic childhoods, and that many are homeless. Consider also that most of the crime they commit (80 per cent) is against property – either burglary or thefts – and that most of this is linked to drug addiction.

If offending is linked to such a complex array of problems, how best are these problems addressed? Up to 80 per cent of those committed to prison have enduring addiction problems, with most being users of illegal drugs. A number of studies have shown that among the benefits of methadone treatment in the community is a substantial reduction in criminality. Yet as another article in this issue of *Working Notes* makes clear, one of the major deficiencies in our response to the drugs problem is the length of waiting times for methadone treatment.

Adequate attention to the needs of drug addicts in the community could substantially reduce crime and lessen the need for expensive prison places. For instance, during the two years which some drug users have to wait to get onto a methadone treatment programme, a person could conceivably commit almost 1,500 crimes – if we calculate that he or she is likely to commit, on average, two crimes per day to feed their habit. Given that there were 14,500 known heroin users in 2002 and that it is estimated that up to 40 per cent of users are not receiving treatment, in some part due to insufficient resources, that adds up to a lot of crime, much of it avoidable.

It is not surprising that Mountjoy Prison and Cloverhill Prison are the biggest drug treatment centres in Ireland – and for some the quickest route into treatment! Outside Dublin, in many areas there are no treatment services available and drug users caught robbing to feed their habit automatically go to jail (at a cost considerably in excess of treatment).

There is also a need to question the impact that punitive measures will have on curbing the incidence of crimes involving violence resulting in serious injury and death – crimes which have increased in recent years. Understandably, such crimes, especially murder and manslaughter, give rise to great public concern. Yet longer imprisonment is unlikely in itself to act as a deterrent, halting or reversing the growing incidence of these crimes. To have any hope of doing so we need to address broader social factors and the patterns of behaviour linked to violence.

For instance, there is considerable evidence to suggest that the increase in public disorder and violence is linked to high levels of consumption of alcohol in pubs, nightclubs and homes, with the consequence that interpersonal confrontations flare into assaults. Moreover, a Department of Justice study has shown that in about half of homicide cases, the victim, or perpetrator or both were intoxicated. More attention therefore to policies that control the abuse of alcohol – and a serious effort to effectively implement such policies – might be far more effective in reducing crime and promoting public safety than the supposed deterrent effect of imprisonment.

Putting Prison in its Place – The Choice We Face

It is not the case that there is no role for imprisonment but its role needs to be firmly located among an array of possible responses, all of which should have the objective of moving offenders away from crime. These responses need to be focused on assisting the offender address the issues underlying his or her offending behaviour, such as addiction, effects of trauma, poor education, mental ill-health and lack of suitable accommodation.

Where imprisonment is the appropriate punishment, prisons must have the facilities and services to try to deal with these underlying issues. In Ireland, there are just a few models of how this can be done – the physical layout of the Dóchas Centre (Women's Prison) and the rehabilitative regime in the Training Unit at Mountjoy show the type of facilities and services that are needed. However, as successive reports, such as those of the Inspector of Prisons and the Prison Chaplains, make clear, most of our prisons are ill-equipped in terms of physical environment, layout, and rehabilitative regimes and resources to

take on the task of addressing the multiple problems that prisoners may have.³ In fact, there is some evidence to suggest that the experience of prison compounds these difficulties.

Perhaps the key choice to be made in Irish policy in relation to crime is whether to maintain the pivotal role of prison or to develop an extensive range of community responses and penalties. Instead of speaking of 'alternatives to imprisonment', we might look to *prison* becoming the alternative form of punishment, used only for the most serious of crimes or, in the case of less serious crime, only after all the other possible options had been tried and had failed.

There are a number of key factors which suggest that there may now be a more favourable context for choosing this different approach.

Firstly, while punitive rhetoric and 'sound bite' solutions feature regularly in public debate on crime, especially at election time, punitive approaches do not appear to be particularly deeply ingrained in our social or political culture. Most politicians have supported the modest developments that seek to expand the range of non-custodial options for dealing with crime – such as the Drugs Court, exploring the potential of Restorative Justice and various initiatives to divert young offenders away from prison.

Secondly, there is also evidence that these policies find considerable support among the public. Almost a decade ago, following extensive consultation, the Report of the National Crime Forum noted that: 'The public is not calling for draconian action'.⁴ More recently, in April 2007, the findings from a nationwide survey commissioned by the Irish Penal Reform Trust showed that among the people questioned:

- 81 per cent believe that offenders who have a drug addiction should be placed in drug recovery programmes instead of serving a prison sentence;
- 91 per cent believe that offenders with mental illness should be treated in a mental health facility instead of being sent to prison;
- 74 per cent are in favour of using alternatives to prison when dealing with young offenders;
- 54 per cent disagree with the proposition that: 'increasing prison numbers will reduce crime'.

When asked which initiative they would most like to see implemented to tackle crime, given a budget of €10 million, only 5 per cent chose 'building additional prison places' as their preferred response.⁵

The combination of political and public support for the further development of non-custodial sanctions and

responses to crime offers the potential to reassess the traditional emphasis on imprisonment and may allow adoption of more enlightened and potentially more effective approaches.

If we are to relocate the place of imprisonment within our responses to crime, a good starting point would be a thorough reassessment of the plans to relocate Mountjoy Prison to a new super-prison complex at Thornton Hall, outside Dublin. Such a reassessment must include reviewing the location, size and design of this proposed development.

Few dispute the need to replace unacceptable and outdated prison buildings such as Cork Prison and the main prison at Mountjoy. Provision of new prison accommodation is, in many cases, long overdue. However, it is important that the proposed programme of prison building should be seen as an opportunity to lower rather than increase the overall number of prison places. In the future, we all might be grateful if the next Government reduced our dependence on prison as a response crime.

Notes

1. *A Study of Offender Recidivism in Ireland*. This three-year project began in October 2003 and was funded by a grant from the Irish Research Council for the Humanities and Social Sciences. It involved collaboration between criminologists at University College Dublin, the University of Missouri–St Louis and Cambridge University. It was widely reported in the media in December 2006; see, for example, *The Irish Times*, 6 December 2006.

2. See *Irish Prison Service Report 2005*. (Available www.irishprisons.ie); *The Probation Service Annual Report 2005*. (Available www.probation.ie).

3. Annual reports of the Inspector of Prisons can be downloaded from www.justice.ie

4. *National Crime Forum Report* (1998) Dublin: Institute of Public Administration.

5. The findings of this survey are available on the website of the Irish Penal Reform Trust. (www.iprt.ie)