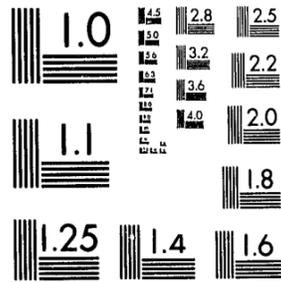


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RESEARCH PROJECT

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SECURITY CLASS. D

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INTERMEDIATE COMMAND COURSE 1/79

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"The ability of our community to maintain the 'Criminal Justice System' is being impaired by the problems associated with imprisonment".

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by the problems associated with imprisonment!"

INTRODUCTION

Of all the problems with which the police have to contend, undoubtedly the most continuous is the prevention and investigation of crime. This, however, is only one aspect of the criminal justice system and it cannot be controlled without due reference to the remainder of the system which in turn could be divided into three further categories.

Firstly comes the enactment by Parliament of the criminal laws and secondly the task of the police to enforce them. The third stage could be the arrest and prosecution of the offender and finally, when the question of guilt has been decided, there is the problem of punishment.

Today, each of these stages seems to be considered in isolation and each seems to be in the province of a different group of people. Politicians make the laws, police enforce them, lawyers and the judiciary control the prosecution, and the prison service deals with those offenders who are incarcerated. None of these groups is obliged to give too much thought to the problems of the others or seems to give sufficient consideration to the working of the criminal justice system as a whole.

This is unfortunate because the different parts of the system are intimately connected. It is no good a parliament passing laws if the police can't enforce them, and there is little point in an offender being pursued to conviction if his punishment is such that it enables him to continue with his criminal activities.

During the last two hundred years the traditional punishment for a serious crime has been imprisonment and, as one might anticipate, as reported crime has increased dramatically, so too has the prison population. For reasons which are not immediately apparent, it is now clear that parliament is endeavouring to curtail or indeed reduce the numbers of persons in prison by means of new legislation. This being directed towards non-custodial sentences,

premature release from prison and more recently the right to bail following arrest. Although statistics would suggest that their objective is being achieved and the numbers of inmates is tending to 'level out' in the last two years, I take the view that this success has been at the expense of the community in the form of increased crime. Whilst there may not at this point in time be any sound evidence to support my theory, the attitude of the general public and indeed many criminals, is that bail, non-custodial sentence, suspended sentence, deferred sentence, and parole, are all considered as 'let offs' and as such, licence is granted for offenders to continue their life of crime. Police officers also understandably experience frustration for they are well aware that such legislation is weighted in favour of the criminal fraternity and detrimental to the public whom they strive to protect.

In the interest of our community, the need to co-ordinate legislation, the ability of the police to arrest offenders, and the value of imprisonment cannot be disregarded and we cannot continue to reduce or curtail prison populations regardless of the consequences.

In today's society which is uncertain of its values, there are fewer checks and counterweights attached to our 'Criminal Justice System'.

The public reaction is often negative and behaviour, even when it is intolerable, is viewed with a mixture of indifference and emotional feeling which depends upon where people happen to be standing in relation to that behaviour or what 'treatment' the media happens to give it.

Public opinion however is recognised as a power capable of limiting the extent to which penal policy can be made, particularly changes which involve less use of prison as a punishment; that is by imprisoning fewer offenders, by imposing shorter sentences, or by releasing some people on parole before their full term has been served. The current move towards reducing the number of offenders sentenced to imprisonment is, in my view, mainly because prisons are already overfull. This is not pure expediency, however, for research has shown that imprisonment, whilst achieving some basic aims, also brings about some unwanted side effects. These aims and effects are to be discussed later.

Before any argument can be made based upon the effect sentencing policies may have on crime generally, it is necessary for me to quote some statistics which highlight

the rise in recorded crime during recent years and the prison populations during the same period.

#### CRIME STATISTICS

Total number of Indictable Offences recorded in year 1967	=	1,316,761
Total number of Indictable Offences recorded in year 1977	=	2,463,025
Offences of violence against the person recorded in 1969	=	37,800
Offences of violence against the person recorded in 1977	=	82,200

Whilst not claiming that these figures are infallable, they are recorded in compliance with Home Office Instructions and despite scepticism, in my view statistics remain the only accurate measure of crime. It is pertinent that during the period covered by the above statistics there have been some changes in the law which have altered the definition of a crime and in addition it must be accepted that police exercise a discretion which strongly effects which incidents are labelled as crimes and are thus reflected in the crime rates. I suggest, however, that these small anomalies do not materially effect the rising crime pattern.

The figures relating to offences of violence against the person are included to support a particular argument which will be developed later.

#### PRISONS - PROBLEMS AND POPULATIONS

In December, 1977 the Prison Department of the Home Office published "Prisons and the Prisoner", an authoritative statement of the policy and practice of the Prison Service and a comprehensive account of the work of penal institutions. Although this publication attempted to describe developments in penal policy and practice over a period, it did not concentrate on the severe practical problems with which the Department has had to contend in recent years.

Since 1975 attention has been drawn in successive Home Office Prison Department Annual Reports to the problems created by the size of the prison population (and the consequent overcrowding), the limited provision for further prison buildings, and the restraints of staffing and resources. These problems continued during 1977 and although there was no significant increase in the size of the population, for most of the year numbers remained close to the very high levels of 1976 and incidentally, the number of females in custody reached

a new peak.

The number of prisoners is not the only factor. However, previous reports have drawn attention to the growing numbers of difficult and subversive prisoners with which the Prison Service is having to contend. It is becoming clear that it is not only in the dispersal prisons that special problems arise with dangerous and disruptive prisoners; the number of potentially dangerous and violent prisoners who pose a threat to the control of prisons is growing. The increase in crimes involving violence in recent years (as illustrated) particularly among young adults, taken along with the wider, and some may say most welcome, availability of non-custodial sentences, has meant that prisons today are having to deal with a less mature and stable type of prisoner who is far more prone to violence than his counterpart of a decade ago.

The average daily prison populations for the years 1967 - 1977 are as follows:

1967	-	34,056
1968	-	31,656
1969	-	33,814

1970	-	38,040
1971	-	38,673
1972	-	37,348
1973	-	35,747
1974	-	35,823
1975	-	38,601
1976	-	41,443
1977	-	41,570

#### THE AIMS OF IMPRISONMENT

Why do we send people to prison? What are the aims and functions of imprisonment?

Every other year the Institute of Criminology at Cambridge holds a senior course of people engaged in the practical tasks of dealing with criminals. The course comprises of Judges, Magistrates and their clerks, administrators, prison governors, and senior officers of police, probation and social services. On the 1978 course, after members had spent some time discussing the research about prisons, they were left wondering why anyone was sent to prison at all. Yet, during subsequent 'sentencing exercises' when each student was asked what sentence should be imposed upon certain offenders, they all found themselves resorting to long terms of imprisonment as the only solution where the facts seemed to indicate that the convicted man was especially dangerous or had committed a deliberate and serious breach of trust.

The aims of imprisonment must be distinguished from the functions. Whereas it might be fair to say that a function of prisons is to serve as a 'sump' of the social services, into which fall the people with whom the other social services have failed to cope, that is not the declared aim of the Prison Service or the sentencers. The popular aims which have been acknowledged either by the Prison Service or the Courts are:-

- a) Safe storage of persons until they can be tried, sentenced, transported to hospital or deported, so that they do not simply disappear.
- b) The protection of society by incapacitating offenders from repeating their offences, at least during the period of custody.
- c) General deterrence of potential offenders by the fear of incarceration.
- d) Individual deterrence of offenders through the memory of the unpleasant experience of imprisonment.

e) Coercion of unco-operative offenders e.g. who have refused to pay fines or defied some other order of the court.

f) Reform and rehabilitation i.e. changing either the offender or his situation in some way that will make him either more law-abiding or (more ambitiously) a more useful citizen.

g) Retribution - punishment.

h) Self protection.

Imprisonment has been with us for many years and for the last century has been the standard ultimate penalty for anything short of murder and treason. Why is it only in recent years that antagonism and criticism have become so widespread? In the past, the failure of one system merely spurred reformers to try a new one. If herding prisoners together did not work, what was needed was segregation. If segregation did not work, what was needed was controlled association. If useless toil on the treadmill did not deter, useful work in workshops would rehabilitate. If no impact was made by regarding prisoners as lazy or wicked, we might get somewhere by treating them as

psychologically sick. Failing that perhaps the answer was education or vocational training, or socialization by way of group therapy. Today, however, it is not only the way prisons should be administered that is called into question but the very necessity of imprisonment. It is this divergence from prison which I suggest is having a considerable adverse effect upon our rising crime figures, particularly those of a more serious nature, generally committed by the 'professional'.

No-one can argue that imprisonment does not achieve some of the 'aims' referred to previously. It provides safe storage, protects society and is certainly punitive. It also remains the final course of action for dealing with unco-operative offenders (non payment of fines etc). The claim that imprisonment is of individual or general deterrence value, however, cannot be so easily proved. Research has shown that imprisonment has some individual deterrent values albeit they may not be permanent. One experiment (WILLIAMS 1975) showed that a selection of inmates released after serving 14.68 months imprisonment remained free from further conviction longer than a similar group released after serving an average of 11.24 months. Clearly such experiments are inevitably ambiguous, being open to more than one interpretation, never-the-less there remains some evidence that the aim of 'individual deterrence' is achieved if only to

some small degree.

#### THE ATTITUDE OF THE JUDICIARY

It is difficult to evaluate the effectiveness of sentences in relation to 'aims' for often these are not articulated by the sentencers. From statements made by judges and magistrates, their principal aims seem to be deterrence, reformation, incapacitation, retribution, denunciation and reparation. I suggest that by achieving any of these first three aims we will also achieve what seems to be the overall aim of a reduction in crime, but this is not necessarily true of the last three. It could therefore be argued that any sentence other than one which achieves deterrence, incapacitation or reformation, may exacerbate the crime situation.

Lord Edmund DAVIES has said, "The prime object of punishment is the protection of the public by the prevention of crime. Magistrates should always and invariably base judgement on the welfare of the community". "It is a bad thing if in the public mind the interest of the offender seems to be placed before those of the victim". In some cases he says, "reformation is uncalled for". The

disgrace of being prosecuted often makes it unlikely that the crime will be repeated. "The schoolmaster caught in widespread dirty practices, the postman who systematically steals public mail, the solicitor who grossly embezzles his clients' funds are but three examples". There are some cases too, "where reformation unfortunately seems unattainable". The "persistent housebreaker and the habitual sex offender" are examples. In such cases "they may have to be imprisoned for a substantial time for one purpose only, that in the general interest they may be kept out of mischievous circulation". When asked, "Is punishment a deterrent?". He replied, "For my own part I have always believed strongly in the force of example, be it good or bad example. To strike fear into the hearts of would-be criminals is admittedly not to appeal to their highest nature, but some means must be found to demonstrate that crime does not pay".

#### THE ATTITUDE OF THE PUBLIC

As mentioned previously the increased use of non-custodial measures must depend upon the acceptability of this policy to public opinion. That any such policy might not be acceptable was the view of the Director General of the Prison

Department who, when speaking to the Institute for the Study and Treatment of Delinquency, said, "We all know that the general public is going to insist on custodial sentences for very many offenders for as long as I can see ahead". Obviously the general public does not itself decide on the type of sentence to be imposed on convicted persons, this is done by Judges and Magistrates exercising their punitive powers on behalf of the community. The general public's 'insistence' on imprisonment is conveyed to sentencers principally through the mass media, especially through the outcry which is raised by and in the media whenever a particular offender for whose offence prison would be the traditional penalty, is not in fact given a custodial sentence; or receives a shorter sentence than might have been expected; or has his imprisonment suspended.

Public opinion can only be made apparent about sentences which are publicized. The medium of publicity for criminal proceedings is traditionally the press, especially the popular press, with radio and television in a secondary role. Crime is news and newspapers have always found newsworthy material in the courts. Sensational crimes involving sex and violence have particular news value. People want to read about them, and sentences imposed in such cases therefore

receive nationwide publicity. Instances last year include the sentence passed on the guardsman convicted of a most unpleasant sexual assault but not imprisoned, and more recently, that of an army deserter awarded one year's imprisonment for the manslaughter of a policeman's son. On a similar theme we can recollect the furor which followed press speculation that 'moors murderer' Myra HINDLEY and 'child killer' Mary BELL were to be released on parole. It would appear in these cases that the public outcry persuaded the authorities to 'think again'.

It is argued by minority groups that public opinion with regard to sentencing is only located in the editorial columns of the sensational press. They say that newspapers can actively shape public opinion on the subject of crime and punishment, particularly when they call for harsher sentences and tougher measures. I think this point of view is well founded, however, although public opinion is generally activated by the media, it never-the-less reflects the view of society at large. In contrast we have also witnessed the goals which can be achieved by vociferous minorities often against general public opinion for the majority will not stand and be counted until roused.

#### THE POLICE PROBLEM

As the number of indicatable offences has risen over the years, the number of persons arrested and brought before the courts has increased proportionately. Logic suggests that the percentage of these offenders who were deserving of imprisonment will have increased likewise. However, although crime figures are continuing to rise annually, prison populations are no longer increasing proportionately. Whilst one might argue that this general increase in crime may be acceptable to society, I cannot foresee that this will continue to be the case if the increasing numbers of offenders who are deserving of imprisonment are given non-custodial sentences.

I refer back to the figures relating to offences of 'violence against the person' which have more than doubled in a period of eight years. My argument is that in the majority of cases, this category of offence is committed by the recidivist who would in times past, invariably have been punished with imprisonment. I suggest that it is this category of offender, more than any other, which has benefited from the non-custodial approach to punishment and consequently we are experiencing a dramatic increase in offences of robbery etc.

Prison establishments are quoted as, just another example of oppression, of people being sacrificed for the protection of property or the privileges of the powerful. Education as a means of conformity has gone out of fashion, and with it acceptance of the role of prisons in training men to obedience and orderly habits. Modern ideas of questioning, criticism, individual originality and initiative, do not fit in nearly as well with the smooth running of a penal institution and the control of difficult even dangerous men. Far reaching achievements in the physical sciences, in industry and technology, have exacerbated impatience with the shortcomings of the social services and their inability to produce workable solutions to major human problems. Failure to alter the attitudes and behaviour of prisoners, repeatedly demonstrated by research into recidivism, coincide with this wider scepticism.

If the impact of penal institutions is dwindling, it may be attributable at least in part, to the sheer increase in crime which has effected prisons in many ways. There are the direct effects of overcrowding in mutual contamination, in limiting of rehabilitative efforts, in increasing concern with security. These problems are to some extent ameliorated

by the growing range of alternatives open to the courts, which means that, in this country, prison is increasingly reserved for habitual, professional or dangerous offenders. It has been said that you can make a man better only by using the remnant of good that is in him. In many of those who still go to prison it is hard to get hold of the good and still harder to build upon it. Then when men leave penal institutions they return to a society where crime and the opportunities for crime are more prevalent than in the past. Whether he is idle or in employment, the ex-prisoner is surrounded by opportunities for theft and fraud.

#### THE UNWANTED SIDE EFFECTS OF IMPRISONMENT

Reports of the unwanted side effects on prisoners contribute to scepticism about what can happen 'inside'. It is important in this field to distinguish clearly what these effects are said to be, and if substantiated, are they valid reasons why we are moving away from imprisonment as a punishment or are there others.

Alleged effects on prisoners:-

- a) impairment of physical health or fitness.
- b) psychological impairment.
- c) loss of interest in relationships with families and other people outside.
- d) deterioration in attitudes to law and authority.
- e) contamination and closer relationships with the criminal element after release.
- f) maltreatment by other prisoners.
- g) Social stigma.
- h) loss of social and work skills.

In addition to the above, which are said to personally effect prisoners, there are also the alleged effects upon their families. These are said to be economic, emotional and stigmatic. Indeed perhaps the primary unwanted side effect of imprisonment

is to give society an opportunity to exercise it's desire to punish without paying sufficient attention to the circumstances in which it is carried out. Since imprisonment represents (in the U.K.) the harshest measure used by authority against other human beings, it is essential that a high priority is given to the prison system to ensure that its components are designed to meet humane objectives. These objectives being mainly punishment, the protection of society and deterrence, and may appropriately be met by loss of liberty but within a framework which whenever possible enables offenders to leave prisons in no worse a condition than when they arrived.

Can some solution not be found by examining the unwanted side effects of todays imprisonment? This problem was recently undertaken by a small study group, their conclusions were as follows:-

- a) Health - it is believed that prisoners make more than the average number of complaints about health, but it is not accepted that physical health is adversely affected. Ailments are speedily treated and in many ways prisoners enjoy a better health service than the general public. Additionally,

regular meals, limited access to tobacco, absence of alcohol and use of gymnasium facilities all promote good health.

b) Psychological impairment - Anxiety, depressiveness, introversion, lack of sociability, apathy, dependence and lack of motivation were all examined in passing and it is accepted that some deterioration takes place.

c) Loss of interest in relationships with families and other people outside - some adverse effects were noted, but usually a sense of reality is retained.

d) Deteriorating attitudes to law and Public Authority - research has shown that about 60% of prisoners do not return to prison after their first sentence, and imprisonment usually follows considerable criminal commitment. From this, it was deduced that in total, little deterioration of attitude takes place.

e) Contamination and closer relationships with the 'criminal element' after release - Evidence in the material studied does not suggest that criminal contact

worsened on release, but contamination during sentence does take place. Expertise is shared, especially in explosives techniques, alarm systems, the availability of firearms, disposal of stolen property and drug abuse etc. and subversion of police systems (complaints).

f) Maltreatment by other prisoners - They are subjected to threats and sometimes violence in such matters as running and carrying for other inmates, gambling and sexual matters.

g) Social stigma - Worry about this is acute prior to release and manifests itself on release in aggression against those in immediate authority resulting from over-sensitivity.

h) Loss of social and work skills - This does occur, mainly with those serving long sentences.

Prisoners Families - Whatever the aims of a court in sentencing a man to imprisonment, it was felt the unwanted side-effects should not hinder the social functioning of the family. But they do, and as an ITV documentary "Double Sentence" illustrated, it is the wife who is punished as much as the husband.

Finance is seen as a major problem exacerbated by the lack of day care facilities which forces wives to rely upon state benefits. Early counselling from the probation service, liaison with H.P. companies, and guidance from home economics advisors, could go some way to prevent these problems mounting up.

Whilst in custody, prisoners are relieved of day to day responsibilities for their dependents and it seems to me essential for them to earn money which can be directed to their families. The suggestion that certain offenders could be incarcerated only outside "working hours", was seen as an area worthy of further experiment.

It is because imprisonment brings these unwanted side effects that has driven parliament towards non-custodial sentences? No doubt the voices of the minority groups which have often criticised imprisonment have had some effect, however, I tend to support the view that we have moved from this form of punishment mainly for economic reasons. Our prisons are full and there is no money readily available to build more.

LEGISLATION INTENDED TO REDUCE/CURTAIL PRISON POPULATIONS

Whether for economic or sociological reasons, government has in recent years introduced several laws which divert many offenders from what would have been sentences of imprisonment. I identify the first of these as the 'Probation Order' which is now catered for by the Powers of Criminal Courts Act 1973. This may effect offenders over 17 years who are convicted of an offence; the court may, having regard to the circumstances, instead of sentencing, make a Probation Order for a period of 1 - 3 years.

The Powers of Criminal Courts Act also embodies the legislation relating to 'Deferrment of Sentence' and 'Suspended Sentences of Imprisonment'.

DEFERRED SENTENCE

A court may defer passing sentence on an offender for the purpose of enabling the court to have regard, in determining sentence, to his conduct after conviction (including, where appropriate, the making by him of reparation for his offence) or to any change in his circumstances. In relation to this authority the case of R v GILBY 1975 has significant bearing; "As a matter

of principle, a substantial sentence is not appropriate after deferrment, where the report on conduct and circumstances is not unfavourable".

#### SUSPENDED SENTENCE

A court which passes a sentence of imprisonment for a term of not more than two years for an offence, may order that the sentence shall not take effect unless, during a period specified in the order, being not less than one year or more than two years from the date of the order, the offender commits another offence punishable with imprisonment.

#### NOTE

A court shall not deal with an offender by means of a suspended sentence unless the case appears to the court to be one in which a sentence of imprisonment would have been appropriate in the absence of any power to suspend such a sentence.

#### PAROLE

Another legislative measure which directly effects

prison populations is that concerned with 'parole'. On the recommendation of a Parole Board, the Secretary of State may release on licence a person serving a sentence of imprisonment (other than 'life' after he has served not less than one third of his sentence or twelve months, whichever expires the later.

Separate provision is made for the release on licence of a person serving a sentence of life imprisonment or detained under Section 53 Children and Young Persons Act, 1933 (Young Offenders convicted of grave crimes).

A licence granted under the Sections may be revoked by the Secretary of State or by the Crown Court following conviction on indictment. One need not examine the record of the parole system in depth in order to identify some of the disastrous decisions which have been made.

#### BAIL

The Bail Act 1976 is the most recent law effecting the use of imprisonment, albeit on a 'remand basis', and in my view the effects todate have been disastrous.

Section 4 of the act applies to a person who is

accused of an offence when:-

a) he appears or is brought before a Magistrates Court or the Crown Court in the course of or in connection with proceedings, or

b) he applies to a court for bail in connection with the proceedings.

A person to whom this section applies SHALL be granted bail except as provided in Schedule 1 (Exceptions to right to bail).

A defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail, would:-

a) fail to surrender to custody, or

b) Commit an offence whilst on bail, or

c) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.

Anyone with practical knowledge of police work will appreciate that to produce evidence in support of the exceptions a) - c) is extremely difficult, albeit in many cases it is known that all three may well apply to a prisoner.

Whilst the effect of Probation, suspended/deferred sentences and parole have all, to some degree, provided an alternative to imprisonment, in my view the most continuous and drastic effect has resulted from the Bail Act.

The others could be interpreted as merely 'delaying the inevitable', but bail pending trial or sentence, gives a person his freedom at a crucial time. Experience has shown that many criminals use this bail period to commit more crime and thereby prepare themselves and their families for their anticipated custodial sentence. Most detective officers can, from their own experience, identify criminals who have paid for their legal representation by committing further offences whilst on bail pending a court hearing.

In my view this aspect of criminology is in need of some meaningful unbiased research. I am confident that an abundance of evidence would be forthcoming to highlight the shortcomings of the current law relating to bail.

Unquestionably all of this legislation has effectively curtailed prison populations, but at what price?. I have highlighted some of the problems of the prison authorities i.e. overcrowding and an increasing percentage of violent and dangerous inmates, but what is the long term effect of these 'non-custodial policies' upon the general public.

If crime is allowed to increase year after year, where will it end? Two and a half million indictable offences this year, might we have double this figure in ten years time? If so should we not expect the prison population to double also? If not, what is to happen to those offenders who will deserve to be imprisoned? (Presuming of course that the police will be able to increase the 'detection rate'). The government could continue to introduce legislation to divert offenders from prison but I suggest again that this policy would only propagate more crime.

While researchers strive for a suitable alternative to imprisonment, can we continue to experiment with sociological theories akin to the treatment and reformation of offenders, or should we as a country return to the tried and trusted aim of containment? I have already argued that imprisonment in it's present form guarantees most of the aims of the sentencers and as a punishment, is favoured by society.

#### CONCLUSIONS AND RECOMMENDATIONS

Can the police continue to maintain the status quo in such circumstances? If crime continues to increase and offenders are not put out of circulation, I see the situation developing to unmanageable proportions. We as a nation will have to either, change existing laws in favour of the police, dramatically increase police strength according to the rise in crime, or imprison offenders.

My arguments lead me to the overall conclusion that the imprisonment of certain offenders is an integral requisite of a stable society. In the absence of capital punishment, it remains the only sentence which is guaranteed to achieve six of the recognised aims of the sentencers.

The shadow Home Secretary recently advocated short term 'glasshouse type' imprisonment as a solution and whilst not knowing clearly what his thoughts are, I think there is merit in his suggestion.

Short sentences would obviate many of the unwanted sideeffects of imprisonment and minimise any family suffering. There would be obvious financial saving and the overcrowding

would be considerably eased. However, if we are to reduce the period of incarceration we must try to increase the deterrent factors, and these may well be increased if prisons were to return to the stark regimes of yester year. Whilst I do not propose barbaric conditions, I feel that many of today's amenities for prisoners could be safely withdrawn. Close examination could also be justified in the field of evening and week-end prisons.

What is the answer? Well, there are several avenues of approach. One is to try and provide more alternatives to existing methods in general, and imprisonment in particular. Another is to institute tougher methods, with a bigger and better custodial system. Both are open to criticism by those who see neither as viable without a considerable extension of social involvement, at levels which do not operate efficiently at the present time.

Probably the key lies in this involvement but here we have to ask what involvement really means. To some it implies schemes for rehabilitation, the use of volunteers and such systematic departures as community service. To others it means a more precise and informed approach to sentencing, with the hindsight of the past as a guideline for the future.

Perhaps we are living in what, in many respects, is a decadent society and until we can do something about it, no shift in a sentencing policy or treatment of offenders, will make one pennyworth of difference. It is well for us to consider not only the limitations of the conservative legal approach but also that of the supposedly enlightened supporter of more humane methods. Perhaps it is not enough to be humane or draconian when we are really so unsure of being right. Scaling down the sentences or indeed scaling up, may not resolve the problem.

Until some satisfactory alternative to imprisonment has been found, tried and tested, I take the view that in order to maintain the present criminal justice system the availability of imprisonment as the ultimate punishment must increase in line with rising crime.

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