

REPORT OF THE PRISONS INQUIRY COMMISSION, 1960. Government Printer,
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The starry-eyed idealists who believe that nothing more complex than toughness towards criminals will suffice to answer the questions posed by crime in a twentieth century society receive short shrift from the members of the Commission of Inquiry appointed in 1959 by the then Yang di-Pertuan Negara. The old view “was that the moral reformation of the prisoner would be achieved primarily through the discipline of punishment. Penal servitude meant hard labour, which was deliberately designed to be as irksome, unproductive and degrading as possible. Practical experience over the years demonstrated that this system failed to effect any decrease in the incidence of crime or recidivism. Prisoners were neither deterred nor reformed, but brutalised and embittered.” (Para. 204.) Yet the old-fashioned view persists; in many parts of the world new outbreaks or fresh increases of crime are greeted by bloodcurdling invitations to governments to hang, beat or generally get tough with convicts; and dissidents from this primitive view are depicted as perverts who have more regard to the welfare of the criminal than to that of his victims. The primitive standpoint is rarely, if ever, adopted by the professional student of crime, yet the primitive idealists, typified perhaps in any gathering of English female Conservative Party members, persistently overlook, deliberately or involuntarily, that the professional student studies the prevention or restriction of anti-social behaviour and not the welfare or advancement of those who have engaged in it.

“Modern penology pays due regard to custodial necessities.” (Para. 205.) This terse but adequate assertion is doubtless necessary in a report which is devoted to emphasis on rehabilitation. Replete with detailed information, replete also, regrettably, with misprints, the report should inaugurate a considerable advance in our penal institutions. “. . . the true object of the prisons system is to achieve the rehabilitation of offenders so that they can return to the community as law-abiding and socially useful persons.” (Para. 3.) “We consider the aim of imprisonment should be that, under controlled conditions, the prisoner should be helped to re-establish his self respect. Nothing effective towards this end can be achieved by imposing conditions which are degrading and humiliating both to those who suffer them and to those who impose them. . . . they . . . are actually a deterrent to reform.” (Para. 91.) “If the intention is to rehabilitate offenders to live according

to the demands of normal life on their discharge from prison, it follows that institutional arrangements inside the prisons should approximate as nearly as possible to the standards and requirements of ordinary living." (Para. 92.) Practical details of this rehabilitative process are then worked out in terms of physical and spiritual amenities, degrees of openness or security of prisons, reformatory training (including industrial and agricultural training with a respectable earnings system), diet, after-care and so on. That the scheme would be more expensive than the present one is not denied, but the extra outlay is affirmed to be worth while.

Prisoners vary in many relevant ways — by age, sex, intelligence, responsiveness, for example — and so the approach to their rehabilitation has to be varied. The commissioners recommend "that once the courts have pronounced the term of imprisonment, the responsibility for assigning to a classification should then be with the prison authorities, who, having closer contact with the offender and more time at their disposal, will in general be in a better position to determine which of the various facilities available will be best suited to the needs of an individual prisoner." (Para. 9; see also paras. 48 and 165.) Prisoners might have to be moved from category to category in the light of experience (paras. 10 and 50.) "The system of classification of offenders which we recommend is based on the requirements of different types of prisoners for differing forms of social treatment and not on degrees of rigorousness of incarceration according to nature of the offence or length of sentence." (Para. 46.) The exclusion of the judiciary from the task of categorisation of prisoners for treatment in jail is based on the superior knowledge and skill of the prison authorities, but no consideration is given to the counter-argument based on the superior skill of the judiciary in arriving at impartial decisions, thus protecting the prisoner (or anyone else) from the enthusiasm, arbitrariness, spite or corruption of bureaucrats. It may be that the former superiority is a more powerful consideration than the latter, but the conflict should be recognised. The judiciary (of common-law countries) have not had a creditable record in matters of penology, but then nor have prison authorities. This Commission has recommended vast changes in prison staffing and administration as a prerequisite to implementing its policy. It is in any case high time judges of criminal courts were made to receive instruction in penology as another reform.

The short-term offender constitutes a thorn in the flesh of the rehabilitator. The Commission suggests (para. 41) "Compulsory Work Attendance at Centres or Camps" instead of imprisonment, "to the fullest justifiable extent, resort to the use of fines for minor offences" (para. 11) and speedier trial of those remanded in custody (para. 29) as means of reducing the number of persons detained in prison and not susceptible to the rehabilitative processes available. What is "the fullest justifiable extent" to which fines can be used, and why should short-term imprisonment be retained at all? The Commission regard short-term imprisonment as worse than useless: positively maleficent (para. 41). They advert to the plight of people who cannot afford to pay fines: for them imprisonment appears singularly senseless, some other method of reimbursing society being easily devisable. They do not advert to people who can afford to pay fines so easily that they buy exemption from the criminal law — imprisonment (sometimes for breach of an injunction) is an orthodox method of dealing with such contumacy, but possibly more and more enormous fines would be better, not interfering with the main stream of prison work.

On punishment within the prisons, the commissioners state (para. 115) their aims as "(a) an impartial and fair system of justice with which the prisoners can have confidence in the same degree as they have in the ordinary course of the law; (b) a reorientation of the system from one with more than a touch of army justice to one corresponding more closely with the normal standards of punishment in society at large; and (c) an effective machinery to maintain discipline within the prisons." Detailed recommendations follow, both for the types of punishment (excluding dietary

penalties) and for the machinery of its administration. Amid the general enlightenment there is an extraordinary pusillanimity on the subject of corporal punishment. "While we are not convinced about the need or value of corporal punishment, submissions have been made to us about the need to retain corporal punishment in the present circumstances, which we cannot ignore." (Para. 18.) "We also look with disfavour upon corporal punishment. However, we recognise that a proportion of the inmates of our prisons come from backgrounds in which physical violence is rife, and, in view of the fact that it will take time to replace the existing custodial system with the new rehabilitative regime that we recommend, and that trained personnel qualified to operate a rehabilitative system will not be immediately be available, we consider it premature at this stage to recommend the discontinuance of corporal punishment." (Para. 119.) So the seal of official approval by imitation is to remain, albeit temporarily, on the backgrounds in which physical violence is rife. Submissions were made about the need to retain corporal punishment in the present circumstances. What were they? Were they supported by such arguments that they could not only not be ignored (of course) but that they carried conviction? If so, why are these arguments not divulged? It is certainly difficult to conjecture what they might be. The pious hope (para. 119) for the diminution of corporal punishment is unlikely to be realised so long as the Commission accepts its necessity.

A striking feature of this report is the extent to which the phenomenon of executive detention without trial has to be taken into account throughout the discussion. At this date Singapore is probably in the company of an absolute majority of all states in having legalised detention by decree. Singapore is probably joined by a majority of states in having a large public opinion which deprecates the "necessity" for this condition of affairs. The Commission mildly guess so (para. 15). It was indeed no part of the job of the commissioners to make judgments on whether alleged political subversives and alleged plain thugs should be detained without trial, but they have been much exercised about what to do with political detainees when they have got them inside.

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