

# Penal Reform, The State and Civil Society

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# The Penal Reform “Network”



- The Howard League for Penal Reform founded 1864/1907)
- Nacro (formed 1965 from DPASs)
- The Prison Reform Trust (founded 1981 .. as a campaign)
- The Koestler Trust; Women in Prison; The Butler Trust; Unlock
- Professional bodies: NAPO, AYJ .... and academics
- In the past: Radical Alternatives to Prison (RAP) and PROP
- Interfacing with government and parliament: Advisory Council of the Penal System; All-Party Penal Affairs Group; solo MPs
- Umbrella/coordinating bodies: Penal Affairs Consortium
- Various bodies and committees within, or funded by churches
- Most service-providing voluntary organisations can and do contribute to public debate and “committees of enquiry”
- Official Inspectorates and Ombudsmen
- Journalists ... and modern “think tank” - Demos, Civitas



# What is/was “Penal Reform”?

- A pressure group-based campaign committed to:
- Abolition of capital and corporal punishment
  - Separate treatment for juvenile offenders.
  - Improvement of prison conditions
  - Promotion of rehabilitation, (redemption) and resettlement (undoing the damage/
  - Development of alternatives to custody
  - Countering public “out of sight, out of mind” attitudes
  - Acting as the “secular conscience” of the state on penal matters

# The Icons of Penal Reform



- Quaker Elizabeth Fry and congregationalist John Howard
- engaged in practical action & sought political influence
- Challenged “less eligibility”
- Commemorated in North America by service-providing organisations
- Howard Association (1864) founded in part by Quaker admirers of Howard - its first two chairs were Quakers.



# Strategies of Penal Reform



## 19th Century

- Christian and/or moral exhortation - the influencing of state elites by the powerful and wealthy (aristocrats and businessmen - or their wives) (NB class analysis!)
- Undertook prison visiting, spoke from experience; set up reform organisations; worked and learned internationally

## 20th century

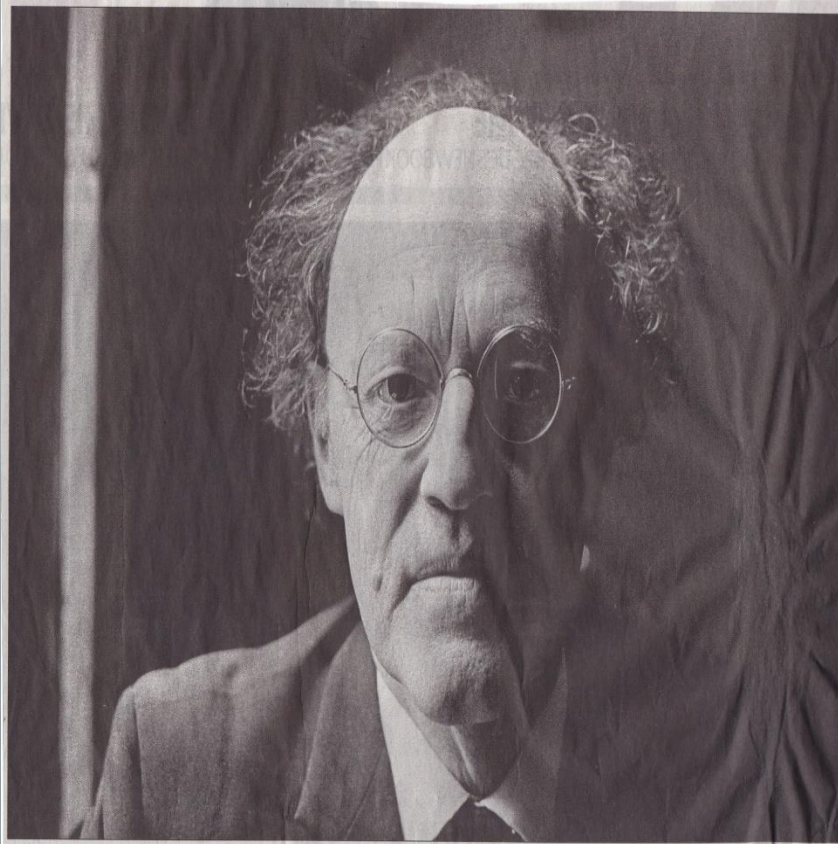
- Permeation of government/state by progressive ideas (“Fabianism”- pursuit of moral and material progress\_
- Empirically informed argument to civilise the state ...and some demonstration projects in the voluntary sector
- Influencing public opinion to support liberal measures
- Legal challenges to bad state practices

# Christian Roots and Legacies of Penal Reform



- Christian roots - redemption, compassion, forgiveness and mercy - scriptural injunction to visit prisoners - the cross as instrument of punishment and religious symbol - Christ's offer to the thief with whom he was crucified - Christian experiences of persecution and imprisonment - evangelism, duty of the wealthy to care for the poor
- Quaker theology ("that of God in every man") & pragmatism (& wealth) created the first penal reform organisations; and (in the US) the first penitentiaries
- The 18th C Enlightenment blended compassion and reason, boosted "secular humanism" - secular pursuit of erstwhile religious ideals of personal development and social harmony
- Secular (penal reform) thought is anchored in distant Christian sentiments whether recognised or not - faith in redeemability can seem unduly idealistic/utopian
- Compassionate (One Nation) conservative penal reformers tend to have Christian roots

# The Soft Power of Aristocratic Patrons with a Sense of Christian Duty etc



- Lord Longford (1905-2001) wrote many books and articles on penal reform
- Shaped Labour Party crime policy in 1960s, esp in respect of young offenders
- Founded New Bridge
- Befriended the Moors Murderers - argued for the redemption and release of Myra Hindley
- A self-styled, patrician “holy fool” - easily mocked - but a guile-less good man

# Penal Reform and Democracy



- Penal reform accepts the state as the manager of penal arrangements - punishment done in “our name”
- Penal affairs not particularly responsive to democratic accountability (“No votes in prisons”.
- Prison reform as “active citizenship” - influencing elites
  - seeing prisoners as citizens
- Majoritarian democracies need reminding to include minorities
- Democratic theory as one source of penal reductionism
- Problems with populism



# Penal Reform and Philanthropy



- Penal reform has been financed by independent philanthropic wealth, some of it tinged with the “non-conformist” spirit.
- Overt political funding frowned upon - helped to maintain penal reform as “charitable/humanitarian” activity - above politics, tho’ in addressing uses of state power it has always been indelibly political.
- The moral health of society is not just about what the state does but about what civil society does - state reflects society, doesn’t direct it.
- Philanthropy mobilises civic altruism - voluntary organisations and volunteers - more of a conservative than a socialist idea - the “big society” echoes this

# Grant-Making Foundations



- Work in the space between the market and the state - finance voluntary sector activity using independent wealth
- “Foundation money may be spent irrespective of legislative mandate and the constraints of political legitimacy. It is this which gives them their largely unrecognised and unaccountable power to influence social development” (Leat 2001)
- Penal reform has historically been beneficiary of this unaccountable independence - enabled it to be “critical friend” of or “loyal opposition” to government.

# Radical Critique of Penal Reform



- 1970s - New Left/counterculture/civil liberties era saw Howard League as patrician part of “the Establishment” - timid, lost sight of big issues
- Radical Alternatives to Prisons (RAP) rooted in CND, initially launched by Christian Action - adopted abolitionism - don't improve prisons, get rid of them, create a just society that doesn't need them.
- Abolitionist challenge - co-option or rejection by the state?
- Spate of prison riots in 1970s wrongfooted Howard League - it had neglected prisoner's own voices. HMP Hull riot produced .....
- PROP - Scandinavian idea of a “prisoner union” - articulate prisoner voice in the media - expose bad practice, marginalise “experts”
- RAP had no direct influence - but radicalised the penal reform sector a little - and some academic criminologists
- Attending to prisoner/ex-con voice - McVicar, Boyle - taking prisoner autobiographies more seriously and at face value lives on - “user voice” - Unlock - speaking from experience

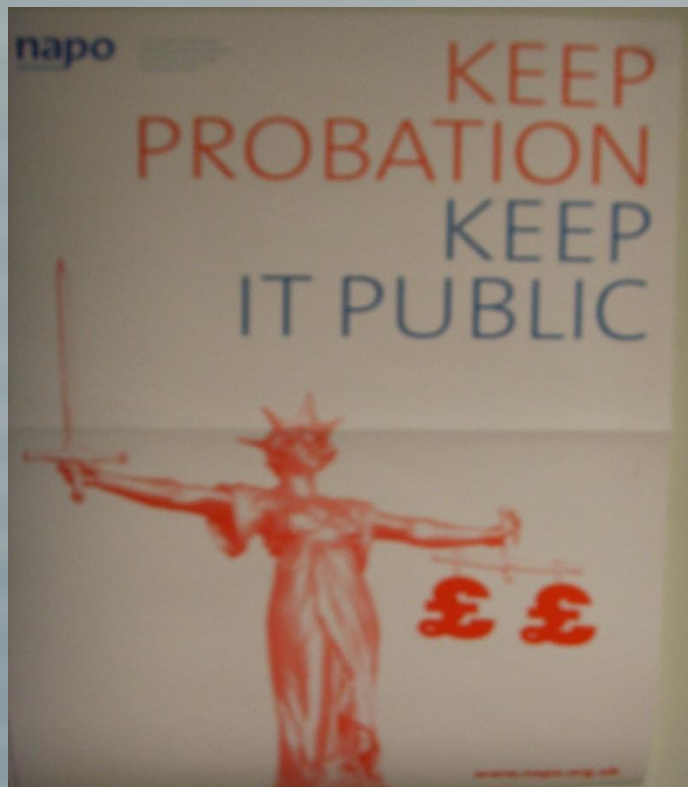


# “The 1980s Successful Revolution”

- “Intermediate Treatment” - state-based initiative” varying intensities of young offender supervision - which segued into movement for massive reduction of custody
- Government wanted - and funded (1983) - local authority and voluntary sector partnerships
- New community role for the old “orphanage” voluntary sector, + new voluntary organisations
- Practitioners co-opted and radicalised policy; NACRO promoted, ran projects, researched the scheme, popularised Massachusetts closure of its juvenile training schools and creation of new not-for-profit community supervision bodies.
- Success bred success- custody reduced *for a decade*

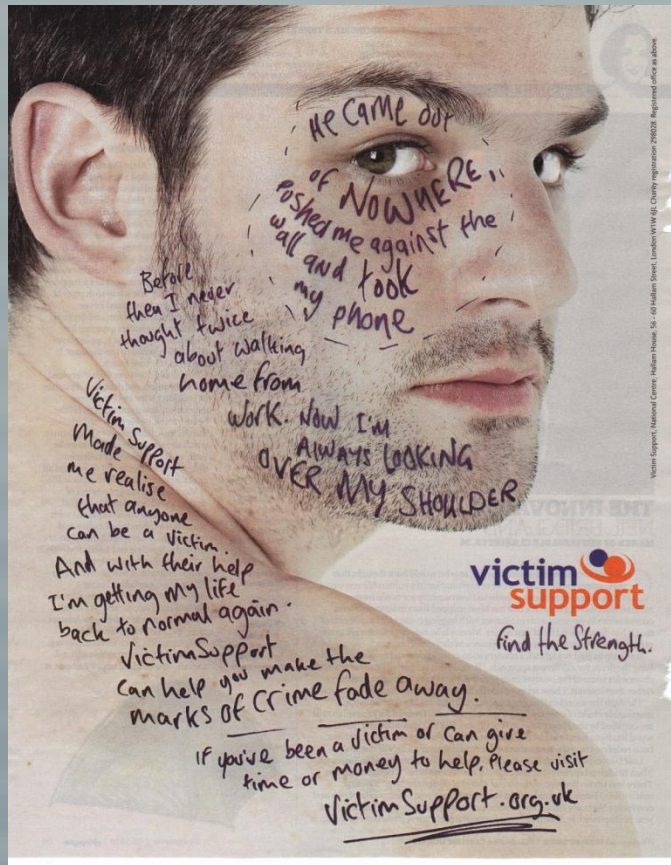


# Penal Reform and Probation



- Twin roots in Church of England & Howard League
- Howard League favoured a state/court-based secular service
- Howard League formed the (progressive) Magistrates Association (1921)
- Margery Fry - a vital champion
- Probation Service - Napo less so - forgot the value of links with penal reform - but became a state-based profession (still) worth defending

# Penal Reform and Crime Victims



- The belated rise of the victim's movement undermined forever the claim that rehabilitation of the offender was a principle above all others in CJ.
- The needs, rights and interests of victims matter too - risk of polarisation?
- “Restorative justice” supplied timely narrative for combining victim and offender interests/issues

# The Crisis of Penal Reform



- Uphold fine ideals - but an ambiguous legacy
- Better on improving conditions and publicising issues than reducing prisoner numbers
- Alternatives - mostly good in themselves (but corruptible) and reduce proportionate use of prison
- Over-reliance on social democratic strategies in a neoliberal era? - the law and order state directs penal policy and controls innovation eg PRT Justice for Women, 2000
- Death of “progress” - an anti-utopian age - decline of rehabilitation - return(?) of “less eligibility”
- Shift from disciplinary to control societies (Foucault /Deleuze)
- The Big Society - assault on the public sector?
- The new “Reform Sector Strategies” project

# Some Ways Forward?



- Penal reform organisations, Probation Trusts and voluntary sector service providers and should see themselves as “communities of practice”, with a common domain (called “community justice”)
- “Offender management” is becoming a “community of practice” by default, as opposed to a domain dominated by a state-based profession (probation service)
- Segue from CoP to social movement? - be both?



# Communities of Practice

Etienne Wenger (1998)



- “Communities of practice are groups of people who share a concern or a passion for something they do and learn how to do it better as they interact regularly”
- Exist within and *across* organisational boundaries - face-to-face, online or both
- Peer-to-peer, collaborative not hierarchical
- Variable scale - global to local - but strategic and practical - not mere “communities of *interest*”
- CoP = (some) useful new ideas for effective working on the state, voluntary and reform sector interface -

# Towards “Community Justice”?



- A cross-sector, unifying term; a common domain
- National policy must ultimately play out in practice at *local* level - constructing “community” matters-shared interests & fates at local level
- “Justice” is the moral heart of all debate on “crime and punishment” - the practical thing to be achieved with offenders and victims
- Community Justice - merges strategies for creating community safety (inc reducing crime) with strategies for maximising offender supervision in the community
- Community Justice - an ethos not a brand(name)



# Coalition Penal Policy .....



# Final Thoughts



- Penal reform as “utopian realism” - cruelty and neglect would be the norm without it - preventing the worst from coming to the worst is still noble.
- Penal reform will always be unpopular, against the grain, accused of sentimentality - always inauspicious times
- Making radical demands to gain moderate results is not foolish .. “go as far as you can see, then see how far you can go” .... Mathiesen’s “the unfinished”
- Stay ethical - above politics - yet be political - do cultural politics - mobilise arts/creative industries to promote penal reform (and rehabilitation)
- Civilise the state and activate civil society; but challenge the motives and reach of the corporate sector
- Ground reform demands in actual practice/service provision - speak from experience - attend to “user voice”
- As a strategy, militant gradualism is all we have