

## **Notes on Commission visit to Norway and Finland**

**6<sup>th</sup> - 10<sup>th</sup> October 2008**

In both countries Commissioners met with officials from the Ministries of Justice, senior criminal justice practitioners and a range of academic criminologists. In Norway Commissioners visited an Open Prison, Bastøy Prison and in Finland the secure Helsinki prison.

### **Summary: Lessons from Scandinavia**

Moderation, simplicity, political distance and long term stability characterise the Scandinavian approach to punishment and imprisonment. It is clear that liberal criminal justice academics and professionals have played a key role in both countries in determining the parameters of acceptable imprisonment. Importantly crime and punishment have not become populist tools in political or public discourse. Prison is designed to punish and as such the traditional rationales used to justify prison such as deterrence and rehabilitation are largely absent from policy rhetoric and practice. It is acknowledged in policy and practice that the problems which bring most people to Norwegian and Finnish prisons cannot be resolved in the prison setting.

### **Norway October 6<sup>th</sup>- 8<sup>th</sup> 2008**

Thomas Mathiesen, the Norwegian criminologist describes Norway's penal culture as 'relatively benign'. With a current prison population of 3,276 the rate of imprisonment has remained relatively stable for some 100 years, currently 75 per 100,000 (compared with a rate of 153 per 100,000 in England and Wales) though the trend is upward.

### **Key points of interest to the Commission:**

#### **1. Stability**

Compared with England and Wales in Norway political intervention is minimal. The first White paper in 10 years was presented in 2008. The long-term role of a cohort of academic criminologists and experts within the Ministry of Justice and Police is a major factor behind the stability of liberal criminal justice policy and practice.

## **2. Small-Scale Local Prisons**

Norway has a policy of many but small local prisons in which the staff inmate ratio is high. There are currently 50 prisons (3,573 cells). Bastøy Prison, a minimum security prison, accommodates 115 prisoners with a staff of 69. Only five staff remain on the island prison overnight.

The low security nature of imprisonment is accompanied by a very low breach rate. Of 25,578 leaves of absence from closed prisons granted in 2006 the breach rate was under 0.3%.

Currently new inmates begin their sentence in a closed prison and are moved at a later stage to an open prison. New reforms will mean the reverse - anyone given a sentence of under 4 years (over 95%) will go straight into an open prison.

## **3. Prisoner's civil rights**

Prisoners retain the right to vote whilst incarcerated and are entitled to communicate freely with journalists. Both rights are regarded as uncontroversial and important safeguards against abuse of power. Equally important is that prisoners contribute to public debate. The Norwegian Association for Penal Reform (KROM) has played a central role in ensuring the voice of prisoners is heard.

## **4. Children**

There is an ethos against imprisoning children. The age of criminal responsibility is 15 and criminal justice officials felt no pressure to reduce this age. Only 0.3% of the total prison population are under 18.

## **5. Prison officers**

Prison officers are very highly trained, requiring university level entrance before acceptance onto the three year programme with the third year as a work placement.

## **6. Sentence lengths**

Of surprise is the widespread use of short prison sentences. Fifty four % of all Norwegian prison sentences are for terms under 2 months, many for drunken driving (20% of the 12,500 new prison entrants each year). The overall aim is for "Punishment that works". Only 10% of prisoners have been sentenced to terms longer than one year.

Norway continues to operate a waiting-list in order to prevent overcrowding although there is now a recognition that the presence of a queue has, in part, been responsible for the recent rise in imprisonment.

The new reforms in Norway (outlined in the 2008 White Paper) will mean that all prisoners in Norway serving less than 4 years will start their sentence in an open prison and therefore be eligible for working out and day release from day one. This not only makes economic sense (they pay " board and lodging " if working) but it will improve community ties and be a powerful spur to good behaviour, since a return to closed conditions would be the penalty for non-compliance. This reform has apparently strong public support.

Norway will also abolish the use of prison for non-payment of fines - all will be converted to community service hours instead.

## **7. Foreign Nationals**

Currently 19.5% of the total prison population is foreign, suggesting deeper concerns of a new underclass emerging on Norway.

## **8. Assisting 'normalisation'**

Built in to the new Norwegian penal reforms is a "return to society" guarantee supported by other agencies including NGOs like the Red Cross. Prisoners are issued with ID cards to help them obtain work, rental agreements, bank accounts etc. Discharged prisoners' rights under the guarantee will be determined according to their needs.

## **9. Populism**

Public attitudes towards crime and punishment were quoted in both countries as being very different to the UK, with politicians and the press able to explore options on a more rational and restrained basis. A largely subscription based daily press (in Finland) was offered as one explanation. Equally, public attitudes are shaped much more by a general and informed understanding of the system. This relates directly to the issue of 'simplicity'. In England and Wales a large, complex, obtuse system riddled with linguistic confusions creates barriers to public understanding and thereby excludes the wider public. In Scandinavia there are clear, simple systems with few alternatives and the level of understanding and the clarity with which prison is perceived is correspondingly greater.

Despite political opposition from the Norwegian People's Party – which attracts some 30% of the vote - Ministry of Justice officials see this opposition as emanating from minority and are not disposed to appeal to populist criminal justice discourse to appease it.

## **10. Localism**

Norway has a population of only 4.75 million. According to Nils Christie a small society makes alienation much less likely. There is an ethos of localism which is reflected in a high number of small local prisons throughout the country. This should bolster arguments in favour of localism and understanding at a smaller, more local level.

## 11. Lay Supervisors

The Scandinavian system of "volunteer" (lay) supervisors was seen to have very significant benefits. Paid a largely nominal sum supervisors make supervision real and immediate, not a monthly visit from a probation officer to a remote town. Offenders may choose their own supervisor (approved by Probation) and that provides two people with a stake in success. The supervision process involves considerable numbers of ordinary citizens in the criminal justice process and this, it could be argued, widens popular understanding of crime and punishment as a result.

### Finland October 8<sup>th</sup> – 10<sup>th</sup>2008

Finland is particularly interesting because of its transformation from having one of the highest rates of imprisonment in Western Europe to having one of the very lowest. In the 1950's the Finnish rate of imprisonment was 187 per 100,000, four times higher than its Scandinavian neighbours. By 2000 the rate was 55 per 100,000 and 68 per 100,000 in 2008. This remarkable decline was the result of a conscious political and intellectual consensus post-war to align with the 'Scandinavian welfare family'. A central pillar in that alignment was a wholesale liberal reform of penal policy. 'Harm reduction' and 'fair distribution' became the guiding aims of the new penal policy – aims which ensured the rhetorical marginalization of criminal justice and the emergence of a new ethical framework in which prevention was linked to social and situational issues rather than to traditional criminal justice activity – fairness replaced severity; harm reduction replaced simple deterrence.

Dr Tapio Lappi-Seppälä, Director of the Finnish National Research Institute of Legal contrasts the Finnish approach with that adopted in England and Wales and the United States:

*Finnish criminal policy may well be characterized as both rational and humane..... Elsewhere in the world, most notably in the U.S. and U.K., criminal policy has become more and more a tool of general politics, a way to transmit "symbolic messages", a way to "take a stand", a way to "make strategic choices", and so on. Instead of balanced reasoning and the weighting the pros and cons of different strategies, criminal justice interventions are often determined by a simple political need to "do something". Too often the rule of thumb seems to be that the higher the level of political authority, the more simplistic the approaches advocated. The consequences can be seen in programmes and slogans that are compressed into two or three words, along the lines of "three strikes", "prison works", "truth in sentencing", "war on drugs", "zero - tolerance" and so on. This in turn leads to the tendency to offer simple solutions to complex problems and to pander to punitive (or what is thought to be punitive) public opinion with harsh tough-on-crime campaigns. A common feature of these programmes also is that the solution to social problems is sought in places where it cannot be found, in the*

*penal system. Unfortunately there are isolated signs of such an approach in the current debate in Finland. Prison rates may have now “hit the bottom”, and we may well anticipate a slight increase in the prison numbers in the future. Still, the concrete legislative reforms in Finland have not given cause for any major concern. The ongoing total reform of the Finnish Penal Code has been carried out with respect for the principles of due process and legal safeguards. The reform of the penal system has concentrated on the expansion of community-based measures. Also the first national crime prevention programme, approved by the government in 1999, puts its focus on situational and local crime prevention. For the time being, it still is hard to imagine that the claim that “prison works” will find its way into Finnish political campaigns.*

## **Key points of interest to the Commission:**

### **1. Stability**

Like Norway a strong and very stable group of academics, government officials, politicians and liberal criminal justice professionals has led criminal justice policy and practice since the 1960's. The long-term consistency of this leadership is striking – the Head of Prison Administration has held the position for 30 years; the current Lord Chancellor and the Director of the Probation Service along with Lappi-Seppälä were all members of the 1960's radical 'Night-time Working Group' which was ultimately responsible for the dramatic reforms in penal policy. There appears to have been little political challenge to this hegemony of 'experts'.

### **2. Law Reforms in the 1970's**

#### **a) Reduction in penalty scales**

Law reforms in the 1970's reduced the penalty scales for theft offences (such that the average prison term for theft was reduced from 12 months in the 1950's to 3 months in the 1990's and percentages imprisoned for drunk driving reduced from 90% in the 1960's to 15% in the 1990's)

b) Extension of fines (becoming the standard punishment now, i.e. 60% of court cases result in a fine); the expansion of the use of conditional imprisonment and the introduction of community service

c) The use of custody for juveniles was restricted

d) Extension of parole

### **3. Conditional sentences**

Conditional sentences are delivered almost twice as frequently as immediate prison sentences. Adults given a conditional sentence are not supervised and the only condition pertaining to the sentence is that the offender does not commit a new crime. Conditional sentences are not revoked for a new offence if the offence carries with it a fine penalty. Only 5% of conditional sentences are revoked.

### **4. Children**

There is a powerful presumption against the use of custody for children. The age of criminal responsibility, as in Norway is 15 and in 2007 only 5 young people aged between 15 and 17 were incarcerated. Fewer than 100 18-20 year olds are in prison. Juveniles are not sent to traditional prison institutions rather they are required to live in 'homes' which contain 'no punitive elements'.

### **5. Prisoners' civil rights**

Prisoners retain the right to vote (the idea that they wouldn't seemed shocking to those working in the Criminal Sanctions Agency). Prisoners in Finnish prisons may also work for wages and be contracted by firms outside prison. There is a strong ethos of normalisation in evidence.

### **6. Community Service**

A true alternative to custody – can only be invoked once an unconditional sentence of imprisonment has been passed. CS in Finland is very simple and straightforward – 1 day in prison = 1 hour community service. CS replaces 35% of prison sentences up to 8 months. Once CS was introduced in 1993 prison sentences fell appreciably. There has, it appears, been no net-widening. It was notable that the system has very few sentencing disposals – making for a simpler system.

### **7. Neighbourhood mediation**

This form of mediation is indicative of a conscious attempt to avoid criminal justice solutions to social problems. It may play a significant role in diverting troubled people away from the penal system.

### **8. Localism**

Finland has a population of 5.3 million. According to Tapio Lappi-Seppälä, 'it helps being small'. There is the same ethos of localism found in Norway which is again reflected in a high number of small local prisons (35) throughout the country.

## 9. Populism

As in Norway criminal justice is not a populist tool employed by either politicians or the media. 'Finns' it was argued by one official, 'are not very interested in punishment'. It is apparent that a small but powerful group of senior academics and officials run the criminal justice system with the acquiescence of politicians. That criminal justice is dealt with humanely and efficiently may ensure that there is little reason for the public to become exercised over crime and punishment issues. Conversely it may also be that a Scandinavian welfarist sensibility allows for experts to manage the system with relative ease – freed as they are from the constraints of responding to populist hysteria.

The mass media does not rely on sensationalist criminal justice news to sell newspapers. Such an approach, according to officials would be viewed as 'unseemly'. A largely subscription based daily press was also offered in explanation for the lack of tabloid exposure.