Prison Policy in SA: No Room for 'Reform'[1]

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Setting the social policy context

The delivery of the Rann Labor Government's 2009-10 State Budget, publicly promoted by the 'building a safer South Australia' slogan, saw further revenue allocated to the "government's commitment to law and order" (Rann 2009A). This included a substantial amount of additional funding to the South Australian Police (SAPOL) for the development of a new headquarters at Yatala and the expansion of several stations across the Adelaide metropolitan area (see Rann 2009A). In direct contrast, the multimillion-dollar 'Prisons and Secure Facilities PPP project', for an upgraded Mobilong 'Super Prison' and new Youth Detention Centre at Cavan, was shafted (Rann 2009B). According to Treasurer Foley, this was a "regrettable but necessary" decision to allow "Government to focus on its highest infrastructure priorities in hospitals, schools, water, security and public transport" (Vaughan 2009). However 'regrettable', this unprecedented move compounded the current 'crisis' in our state prison system, only just recovering from a 'stand-off' riot by inmates at Port Augusta Prison demonstrating their longstanding concerns about the over-crowded conditions (see ABC News 2008; Kemp & Lower 2008).

In retrospect, the proposed upgrade of Mobilong was seemingly a project destined for doom. When official plans were publicly

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announced in 2007, media reports made forecasts that further amendments to criminal law to enact 'tougher' legislation and 'longer' sentences would cause the prison to be at full capacity before it had even re-opened (see Bildstein 2007; Jory 2007). One year later, in 2008, Treasurer Foleys's threat of "rack 'em, pack 'em and stack 'em" caused a self-fulfilling prophecy that led to media reports re-surfacing about inmates being increasingly accommodated two-to-a-cell, sparking public concerns about well-being and repercussions for treatment and rehabilitation programs (see Gout 2008; Wheatley 2008). Worse still, this callous threat publicised the Government's arrogance about its unwavering 'tough on crime' stance, in spite of research critically condemning the same agenda used by Mayor Giuliani in New York City during the 90s. This suggests:

> (G)etting tough on crime in most cases has not led, and will not lead, to significant reductions in crime except at enormous cost to taxpayers or cutbacks in social programs that would reduce crime more effectively (Waller 2006, p. 1).

This enormous 'cost' burden is perhaps no better exemplified than in the report *Incarceration: Unsustainable Costs and Diminishing Benefits* published by OARSSA and SACOSS, which proposes catastrophic implications with an enduring "hardline focus on retribution and punitive sanctions" (OARSSA & SACOSS 2008, p. 1). It highlights an average cost of $67,525 per prisoner per annum to accommodate a South Australian prisoner in 2007, which given current trends, can be expected to more than double to approximately $124,633 by 2018 (OARSSA & SACOSS 2008, p. 1). On a damning side note, it has been proposed that around 57 per cent of this annual expenditure is allocated to containment and supervision purposes, while a mere 10 per cent is used to fund care and development programs (Treadwell 1997, p. 4). The report's final recommendations call for sweeping changes of

prison reform based on "early intervention, prevention and restorative justice" principles, including increased 'resource allocation' to reduce over-crowded conditions and fund the extensive provision of post-release support, mental health treatments, training and rehabilitation programs (OARSSA & SACOSS 2008, p. 3).

In their broadest sense, proposals for prison reform fundamentally question the 'legitimacy' of imprisonment as form of punishment "…in the face of a near terminal crisis of order and moral credibility" (Sparks 2006, p. 72). Kupers forewarns, the "recipe for creating madness in prison" begins with over-crowded conditions, and gradually advances with the dismantling of training and rehabilitation programs, the restriction of visitation privileges, the ignorance of traumatic life histories and current events, before eventually, the complete denial of mental health treatments (Kupers 2006). Therefore, it is clear that the current climate needs to be addressed with some imminent sense of urgency before considering the next question: how to prevent this so-called 'madness' from escalating? This policy paper continues on the work of OARSSA & SACOSS to discuss how reform can be implemented and achieved in our state prison system to facilitate 'humane' conditions, where the central focus is prisoner's health and wellbeing[2]. It begins by describing the state prison population and summarising the current climate of over-crowding. It questions whether there remains a 'legitimate' purpose for imprisonment, and then moves onto a discussion of establishing the foundations of more 'humane' conditions with the provision of appropriate rehabilitation programs to achieve 'reform'.

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[2] Note that this paper will not discuss the effects of imprisonment which have been thoroughly outlined elsewhere (see Key References).

The state prison population

Jamrozik advises "…in the context of social policy, it is important to ask: who are the offenders, not as individuals but as a collective with identifiable socio-economic and class characteristics" (Jamrozik 2005, p. 281). When Sykes outlined the 'pains of imprisonment' he was essentially declaring imprisonment as "an attack on…the status of citizenship – that basic acceptance of the individual as a functioning member of the society in which he (or she) lives" (Sykes 2006, p. 165). However, it could be argued whether the elements of 'citizenship', and particularly 'social rights' of equal access and opportunity, are at hand to be taken from prisoners, considering "in most countries one can discover which are the marginalised groups of society by analysing the prison population" (Coyle 2005, p. 60). The majority of prisoners originate from environments of chronic socio-economic disadvantage; usually plagued by unstable housing, inter-generational unemployment and social isolation (OARSSA & SACOSS 2008, p. 12). Their poor educational attainment and failure to achieve significant developmental milestones has been acknowledged by the Social Exclusion Unit, who reported a higher likelihood of British prisoners being 'in care' and truants from school as children (Social Exclusion Unit 2002, cited in Coyle 2005, p. 61). Matter of fact, it found that the majority of British prisoners possessed numeracy, reading and writing skills comparative to those of an 11 year-old child (Social Exclusion Unit 2002, cited in Coyle 2005, p. 61). This prompted the conclusion:

> A high proportion of people who are in prison have, in some way or another, failed within the mainstream educational system…(meaning) that they do not have many of the skills which are necessary to survive within modern society (Social Exclusion Unit 2002, cited in Coyle 2005,p. 61).

Closer to home, research draws a parallel with the majority of

Australian prisoners whom "had not completed high school, and their three most common group characteristics were their Aboriginality, unemployment at the time of arrest, and previous incarceration" (Walker 1992, cited in Jamrozik 2005, p. 281). This further correlates with recent statistics from the National Prisoner Census highlighting that, from a total population of 1,942 sentenced and remanded South Australian prisoners, 20.6 per cent (or 401 prisoners) identified as 'Indigenous' in direct contrast with only 1.9 per cent of the total state population (ABS 2008). Just as concerning was 54.6 per cent (1060 prisoners) of the state prison population had previously been sentenced to a prior term of imprisonment, which suggests high levels of recidivism among former prisoners (ABS 2008). The dilemmas faced by former prisoners trying to reintegrate has been highlighted by Zamble and Quinsey, who acknowledged 'unsettled lives' impacted with unresolved alcohol and substance abuse, periodic unemployment, frequently re-locating residence and an inability to maintain close relationships to others (Zamble & Quinsey 1997, pp. 33-34). In sum, research proposes that prison populations comprise some of the most disadvantaged people in society who, paradoxically, receive the least amount of attention and assistance when they legitimately can claim as having the greatest needs (Clancy et al. 2006, p. 2).

The current climate of over-crowding

The current climate of over-crowding can be best described by "crowded living conditions, low social and spatial density, (and) the forced co-habitation of people who exhibit anti-social behaviour, boredom, idleness, aggression, despair and an absence of personal control" (OARSSA & SACOSS 2008, p. 16). Managing the safety risks of such a hostile environment is a difficult task, and usually means inmates being confined to their cells for prolonged

periods of time (up to 23 hours a day in extreme conditions), which ironically, further exacerbates tensions between inmates and among prisoners and correctional staff (Jewkes & Johnstone 2006B, p. 283). It also facilitates conditions prevalent with occurrences of bullying, violence, suicide, self-harm, communicable diseases and mental health illnesses, such as anxiety, depression and post-traumatic stress (OARSSA & SACOSS 2008, p. 16; Jewkes & Johnstone 2006B, p. 283; Toch 2006B, p. 39). Additionally, over-crowded conditions can frequently lead to the removal of privileges a due to lack of supervision, which Frank Wood, former Minnesota Commissioner of Corrections, acknowledges with his following observation:

> When you take away television, when you take away weights, when you take away all forms of recreation, inmates react as normal people would. They become irritable. They become hostile. Hostility breeds violence, and violence breeds fear. And fear is the enemy of rehabilitation (Hallinan 2001, cited in Kupers 2006, p. 51).

A 'legitimate' purpose for imprisonment?

For the average citizen, the purpose of imprisonment to 'secure' and 'confine' offenders can be visually derived from "…the isolated location, quarantined insulation, and fortress architecture of prisons" (Toch 2006B, p. 7). In legal terms, the definition in the *Criminal Law Sentencing Act 1988 (SA)*, Section 11, declares 'imprisonment' can "*only* be imposed" in circumstances where, "in the opinion of the court", the defendant has: displayed violent tendencies to others; they are likely to commit a serious offence if not imprisoned; been previously convicted of an offence punishable by imprisonment; or; any other sentence would be considered as "inappropriate" for the nature of the offence. Evidently, imprisonment is defined as a punishment of 'last resort', which is only considered appropriate when all other alternatives have been thoroughly explored or exhausted (Lippke

2007, p. 104; LSCSA 2009). Idealistically, it is thought to serve four main purposes (in this order of preference): *punishment* or *retribution* for the offence/s committed, *public protection* from those 'others' who commit crime, *deterrence* or *restraint* for the individual and members of society from further offending behaviour, and *reform* to change the individual's anti-social behaviour (Coyle 2005, pp. 12-18; Glaser 1972, p. 102).

Declaring 'tough on crime' undeniably fulfils these first three purposes, but, it simultaneously promotes a popular 're-personalisation' that crime 'can happen to you', which influences public demand for more 'repressive' forms of punishment (Mason 2006, p. 1). Ryan proposes that, in the British experience, this 're-personalisation' of crime has often been manipulated for 'political opportunism' by the two main parties' politicians "to secure votes, to win electoral advantage", causing a vicious cycle where public demand is influenced and exploited for political purposes (Ryan 2006, p. 37). This makes the current Rann Labor Government's intentions questionable, especially with an up-coming election. On the contrary, research suggests that public attitudes regarding punishment also concurrently favour the use of preventative measures, imprisonment alternatives and programs targeting underlying sources of offending behaviour (Allen 2006, pp. 70-72). This leaves Correctional Departments with the complicated task of achieving a balance between political demands for punishment, public attitudes to prevention and alternatives, and, the "supervision and rehabilitation of offenders…to provide them with opportunities to lead law-abiding and productive lives" (DCS 2009).

The reality exists where retributive and punitive agendas will continue to prevail when calls for prison reform are "greeted with derisive howls of 'bleeding hearts'…being out of touch with

community expectations and standards" (OARSSA & SACOSS 2008, p. 22). Yet, this blatant ignorance not only seemingly contradicts public attitudes, but what Foucault declared as being the purpose of modern imprisonment way back in the 18th Century: to utilise 'disciplinary power' constructively for "the means of correct training" to help sculpt and mould individuals (Foucault 1979, p. 170). Nowadays, within the highly regulated prison where, "the mind and the soul…are the central concern", the concept of 'time' has lost both significance and structure (and hence, descriptions of 'doing time') (Jewkes & Johnston 2006, p. 13). The sheer abundance of 'time' in prison remains mostly 'unproductive', and negatively contributes to deepening inmates' feelings of dependency, hopelessness and deterioration (Cohen & Taylor 2006). Thus, the predicament for our state prison system becomes "making time in prison meaningful", by shifting "the focus of imprisonment from the crime and onto the offender" (Cowles 2006, p. 110).

Towards establishing more 'humane' conditions

In SA, the guiding *Correctional Services Act 1982 (SA)*, Part 4, suggests that the 'management of prisoners' should encompass work, education (as seen as "fit"), allowances, personal items, mail, goods and visitation rights. This brief legislation must be truly considered for amendment to account for its deficiencies. A possible solution lies herein the UN's *Standard Minimum Rules for the Treatment of Prisoners*, adopted by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which (whilst not regarded as being binding) provides perhaps the most comprehensive guidelines of 'best practice' for management of prisons and treatment of inmates (OHCHR 2009). Standard 9.1 of 'Accommodation' states that each inmate should independently occupy a cell or room, except under special

circumstances that permit "*temporary* over-crowding", although it seen as undesirable to have multiple inmates share the same space (OHCHR 2009). The standards further continue to outline 'guiding principles' for the 'treatment' of prisoners. In particular, Standard 65 provides some indication that 'treatment' should cultivate "the will to lead law-abiding lives and self-supporting lives after (their) release"; meanwhile, Standard 66.1 suggests that achieving this desirable result requires "all appropriate means (shall) be used…in accordance with the individual needs of each prisoner" (OHCHR 2009).

The ACT's first prison, the Alexander Maconochie Centre at Hume, claims to be a 'world-first' in prisons that are compliant with UN Standards (Sherlock 2009). It is specially designed as what is known as a 'therapeutic community'; with an open campus style design to accommodate 300 sentenced or remanded prisoners ranging from low- to high- security (ABC 2008A). Prisoners declared 'low-risk' reside in self-contained units clustered around a central facilities area. This is specifically designed to improve independent living skills and practice being responsible for daily activities like cooking, cleaning and laundry (ACTCS 2009; Sherlock 2009). While its initial operating budget is predicted to be around $79,335 per prisoner per annum, this is expected to rapidly drop over time when the long-term benefits are expected to outweigh the up-front costs (see Sherlock 2009). Evidence that therapeutic communities can be "humane, constructive and life-changing" experiences, or rather "proof (that) prison can work", originates from Weale, who recalls her experience inside Britain's therapeutic prison, HMP Grendon (Weale 2006, 95):

> Inmates move around with comparative freedom; their cells are unlocked at 8am, they remain open all day, prisoners eat together

and talk together, with lock-up at 9pm. Most crucially, they attend daily group therapy sessions. There they confront their crimes, take responsibility for their actions and explore their lives, their pasts, their childhoods, to try to uncover why they have done what they have done and how to avoid doing it again…()…The prison is divided into therapeutic wings. Each wing is a democratised community that selects its own officials and sets its own rules. There are three key policies that everyone is expected to observe – no drugs, no sex, no violence. If you breach any of the three, your peers can decide whether you should be allowed a second chance or kicked out (Weale 2006, pp 94-95).

As can be seen, the ultimate success of therapeutic communities like Grendon heavily relies on their capability to encourage 'inclusiveness', "…through participative management and shared decision-making, so staff and inmates can develop a sense of ownership and a feeling of having a stake in the welfare and survival of the community they have helped to shape" (Toch 2006, p. 2). However, the challenge that arises for establishing therapeutic communities is what Lippke declares as 'the resource problem' (Lippke 2007). Future proposals for more therapeutic prisons will inevitably be denied on the grounds that they drain scarce resources and present a increased 'cost' burden to the state and taxpayers (Lippke 2007, pp. 145-146). Lippke believes that justification for more 'humane' and therapeutic prisons comes from the high possibility "any increased costs of less restrictive and more humane prisons in the short term will be more than offset by reductions in recidivism in the long term" (Lippke 2007, p. 147). Furthermore, the neo-liberal trend of 'contracting out' management of prisons to private providers presents a unique opportunity for our state government to capitalise on competitive tendering and perhaps impose minimum 'humane' standards and 'therapeutic' conditions in contracting (Lippke 2007, p. 263). To make contracts more lucrative, Government could also be willing to reward private providers for achieving significant reform

(Lippke 2007, p. 244).

Appropriate rehabilitation programs to achieve 'reform'

The ineffectiveness of over-crowded conditions to produce reform outcomes reflects "our state of ignorance and our sense of impotence" about what remains concealed behind prison walls (Toch 2006, p. 1). In accord, there is a need for transparency within our state prison system as, "a frequent result of self-regulation by prisons is a palpable schism between treatment programs and the security and custody demands" (Cowles 2006, p. 102). Therefore, innovative rehabilitation programs are usually denied because they are perceived as deviating away from the dominant 'security' and 'confinement' purposes of imprisonment, or, are viewed as affording inmates with "an unseemingly privileged existence…exempting them from universally applicable rules" (Toch 2006, p. 3). Cowles presents the example of how 'goal incongruities' in US juvenile reformatories, evident with high razor-wire topped fences, search procedures and more subtle restrictions embedded in rules, policies and protocols, worked towards diminishing opportunities for achieving constructive results with inmates (Cowles 2006, pp. 102-103). Thus, design features and management styles need to be complementary in order for more 'humane' and therapeutic prisons to be effective and not exhibit contradictory 'mixed' messages.

Ward and Maruna propose that reducing initial resistance and defiance towards rehabilitation programs means, "options offered to prisoners and probationers need to make sense to clients themselves and be clearly relevant to the possibility of their living a better life" (Ward & Maruna 2007, pp. 18-19). Currently, the major model for rehabilitation programs is known as the Risk-Needs-Responsivity (RNR) Model, which is primarily targeted at assessing 'risks' and reducing 'criminogenic' needs, such as anti-

social attitudes and behaviours, self-control issues, problem-solving skills, and, anger-management problems (Cowles 2006, p. 103; Howells & Day 1999; MacKenzie 1999; Ward & Maruna 2007, pp. 48-49). However, Ward and Maruna firmly believe the restrictive focus on risk assessment that is inherent in the RNR model shifts the focus from achieving something 'good', to preventing something 'worse' (Ward & Maruna 2007, p. 45). To move beyond the 'risk' paradigm, they propose integrating their 'Good Lives Model' (GLM) with the existing RNR model to counteract its deficiencies and provide a 'strengths-based' approach focused on the "formation of a therapeutic alliance and motivating individuals to engage in the difficult process of changing their life" (Ward & Maruna 2007, p. 107). They highlight the pursuit of basic human goods, like relationships, experiences of mastery, sense of belonging, purpose and autonomy, is implicit in all offending behaviour; and rehabilitation programs should be able to equip prisoners with the knowledge, skills, opportunities and resources to pursue a 'good life' in socially acceptable and legitimate ways (Ward & Maruna 2007, pp. 108-111). They point out that in practice, this means:

> ...(R)emind(ing) correctional workers that their clients are not moral strangers. That is, individuals who commit offences act from a common set of goals...()… (and) are more than the sum of their criminal record. They have expertise and a variety of strengths that can benefit society. Interventions should promote and facilitate these contributions wherever possible (Ward & Maruna 2007, pp. 125-128).

Conclusion

The Rann Labor Government's decision to divert spending from plans to establish and improve correctional facilities in the latest State Budget was highly indicative of where their priorities lie. This unanticipated move caused concerns about overcrowded conditions in our state prisons to remain unresolved with

increased funds allocated to a 'tough on crime' agenda largely focused on apprehension rather than reform of offenders, despite critical research that this agenda does not work, except at enormous costs. The increasing financial burden is already apparent in the rising annual costs to accommodate a prisoner in a South Australian prison. In addition, these costs are being allocated to containment and supervision rather than prisoner care and training. Calls for prison reform targeting early intervention, prevention and restorative justice have been made, but the problem lies with what to do now - how to make prisons 'legitimate' and stop the current 'madness' of over-crowding from escalating?

It is important to first understand who prisoners are. While it is suggested that imprisonment is an attack on 'citizenship', it could be argued that citizenship is not always implicit for prisoners who usually derive from marginalised groups suffering chronic socio-economic disadvantage. In general, their poor educational record and inability to achieve developmental goals has been recognised by research that suggests early childhood difficulties which have affected abilities to develop essential living skills to survive. Australian research draws similar conclusions that the majority of prisoners share common characteristics in their lack of educational attainment, their Indigeneity, and, their previous history in prison. Census information notes Indigenous persons and prisoners who have previously served time are over-represented in SA prisons. Research also suggests the difficulties that former prisoners face trying to reintegrate. The paradox is that given all findings, prisoners continue to receive the minimal amount of assistance and attention they require to achieve reform from mainstream society.

The predominant purpose of imprisonment can be casually

observed by standing outside front gates. In the legal context, imprisonment is seen as a last resort that is reserved only for those offenders who are unsafe to mingle amongst the rest of society because they have abused all other options. As their final destination, prison is said to serve four key purpose of punishment or retribution, public protection, deterrence or restraint, and, reform. However, it is questionable if 'tough on crime' rhetoric serves all four. It certainly serves the first three, and it promotes this fact by reframing crime to give the impression that it can happen to anyone. This, in turn, helps gain political momentum and influence public opinion. On the other hand, public opinion heavily favours a balance of punishment, prevention, alternatives and programs targeted at offending. This leaves with Correctional Departments with a difficult tack to satisfy their funding body and public demand, on top of the needs of prisoners. Yet, public opinion has heavily been met with derogatory comments, and this contradicts founding assumptions about the purpose of modern imprisonment. The challenge has now become making time in prison meaningful for prisoners.

Current South Australian legislation regarding the management of prisoners is inadequate and requires significant amendment. A possible solution lies with the UN Standard Minimum Rules, globally considered as 'best practice' in the management of prisons and treatment of inmates. It proposes that accommodation should exempt more than one inmate per room or cell, and puts forth that the treatment of prisoners should use all appropriate means to develop the will to lead law-abiding and self-supporting lives. This is the main goal of the ACT's Alexander Maconochie Centre, which claims to be a landmark in the development of therapeutic prisons compliant with UN Standards. Weale highlights experiences on the effectiveness of therapeutic prisons. Their key

strength lays with a capability to promote and encourage inclusiveness, yet, the challenge that arises is one concerning scarce resources, which needs to be justified to the state and its taxpayers with the ability of humane and therapeutic prisons to reduce recidivism over the long term future. The current neo-liberal trend of privatisation potentially presents an opportunity for our state government to impose minimum humane standards and therapeutic conditions.

The inefficiencies of over-crowded conditions seemingly reflect our inability to investigate what lies beyond prison walls, thus, there is a real need for more transparency of our state prisons. Their ability to self-govern and potentially deny the provision of treatment programs, also is of the upmost concern. Innovative rehabilitation programs are over-looked on the perception that they move away from the ingrained dominant purposes of security and confinement of inmates, and potentially provide them with undeserving privileges. These 'goal incongruities' are pointed out by Cowles' experience. Ward and Maruna put forth that rehabilitation options for prisoners must open-up the possibility of leading a better life. The dominant RNR model, focusing on risk assessment and reducing criminogenic needs, is so concerned with risks that it potentially fails to promote anything positive. They propose that moving beyond the preoccupation with risk can be achieved with their GLM, which aims for a strengths-based approach focused on practice in pursuing basic human goods and equipping prisoners with the tools needed to live a good life.

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