

Book Reviews

Community Punishment: European Perspectives*

Edited by Gwen Robinson and Fergus McNeill

London: Routledge, 2016

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The editors have collated within one book a snapshot of criminal justice across most of Western Europe that will provide an immediate brief to any student or practitioner wishing to gain an insight into many concepts and approaches. While the reader may expect to gain an understanding of probation as it applies to their own and other states, it becomes immediately obvious that in many countries community punishment was developed as an alternative to prisons for a number of reasons, political, social, organisational and economic. The editors acknowledge this and, having highlighted the disparity between the amount of research comprising ‘comparative penology’ and community supervision, they purposely adopt an approach beyond conventional meanings of ‘probation’ to encompass all forms of mandatory supervision including financial penalties and electronic monitoring: hence ‘community punishment’.

In order to provide a measure of consistency across so many authors, Robinson and McNeill have suggested a framework of questions to be addressed including foundation, development and reflections for each author to consider. They also encouraged writers to address the four narratives of supervision, i.e. ‘managerial, punitive, rehabilitative and reparative’ in describing the evolution of their respective jurisdictions’ criminal justice system.

The book is not rigidly linear: by all means start with your own country, but do read them all in order to appreciate common themes and issues that have shaped (or hindered) each society’s understanding of punishment and supervision. That said, in beginning with Belgium, England & Wales and France, the chapters present a series of

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contemporary agencies struggling with the erosion of social work values in practice, diminishing resources and a constant battle to define their own legitimacy.

All too often economics emerges as the most pernicious driving force for community punishment, based on no other rationale than to offset prison populations. As mentioned, the book holds no linear plot and I admit to an element of *Schadenfreude* in reading the final essay on Sweden (considered by most as the 'Gold Standard' of supervision in Europe, if not the world), by Svensson, to discover a service not beyond its own crisis of identity and legitimacy and susceptible to political manipulation in the past.

What makes these essays interesting is that the authors are objective but not dispassionate in their analysis of their respective services. Kristel Beyens describes how the Probation Officer role became one of 'judicial assistance' in Belgium, emphasising that their task was to ensure compliance but the cost of increasing bureaucracy was diminishing the scope to offer social welfare and guidance. She adds that the fear of the 'hollowing out of the social and human dimension' is not without foundation and that JAs in Belgium are at risk of becoming mere administrators of sentences while, increasingly, areas of their work are outsourced to less skilled staff 'in temporary and uncertain positions without social work training'. Each author highlights an issue or challenge that will resonate with the reader when considering their own service and practice. Robinson's own essay on England & Wales, unflinchingly titled 'Three Narratives and a Funeral', pointedly illustrates how the rise of the managerial narrative, risk assessment culture and the proliferation of cognitive behavioural programmes now means that 'Crime is a risk to be managed rather than a social problem to be eliminated.'

Ioan Durnescu provides a fascinating insight into Romania post revolution, where, after 1989, crime rates exploded and prison costs threatened to bankrupt a fledgling democracy. Its solution – to embark upon a massive decarceration strategy – foundered on the absence of a statutory agency dedicated to community supervision. The creation of the Romanian Probation Service from 2000 onwards describes not just a modernisation but a 'Europeanisation' of the justice system there.

Deirdre Healy's chapter on the evolution of probation in the Republic of Ireland is a wry and reflective account of how a service has survived primarily due to political apathy which protected it from populist fads and kneejerk reactions and has allowed it to maintain its penal welfare ideology. However, she makes it clear that the dedication and effort of its staff does

not deserve an organisation that remains on the verge of neglect, underfunded and in need of modernisation. Even the success of the 'Community Return Programme', where prisoners can be released to perform community service, is defined as coming from 'an austerity narrative rather a managerial one'!

Throughout each of these contributions common themes can be found, but they are not universal. There is the debate regarding what community punishment is and what it is actually meant to achieve. In many instances it developed as an alternative to custody but only if it emphasised the punitive element of supervision which, for many agencies, could only be delivered at the expense of social work values and an abandonment of the rehabilitation narrative. In France even the word 'community' is perceived as divisive, and in Spain the concept of community punishment is almost alien, but political and financial necessity compels each country to develop its services.

Paradoxes are everywhere: although community service is cheaper than custody, less is spent on it, guaranteeing its failure to grow and that prison populations remain high (Spain). France has a Probation Service merged with prisons where it is the dominant partner and has never been more powerful or less involved with social work (Herzog-Evans). The Troubles in Northern Ireland created entire communities outside a normal criminal justice system but PBNI's neutrality allowed it to function and cultivate a creative, rehabilitative service in those communities, albeit with the tacit approval of paramilitary organisations for which 'community punishment' was an altogether more visceral practice used to maintain their legitimacy in those areas.

There is no doubt that services face their own challenges and are increasingly having to redefine themselves according to the dominant socio-political mores of the moment, but the tone of the book is not pessimistic. As stated, the writers are not dispassionate, and in many instances – The Netherlands, Germany, Belgium etc. – there is reference to an almost guerrilla-like movement which hints at small groups of probation staff mounting an insurrection of care and compassion for offenders within an overwhelming Offender Administration Machine.

The editors do not propose to provide answers to a continually evolving concept, but I admit that having read their book I have travelled to interesting places and in good company – I have become a little wiser along the way.

Dangerous Politics: Risk, Political Vulnerability, and Penal Policy*

Harry Annison

Oxford: Oxford University Press, 2015

ISBN: 978-0-19872-860-3, 288 pages, hardback, £65.00

Section 225 of the Criminal Justice Act 2003, which came into effect in 2005, provided for the Indeterminate Sentence for Public Protection (IPP) in England and Wales, so that any offender who a judge thought *might* be dangerous could be indefinitely detained in prison, after the expiration of a minimum tariff.

Harry Annison's book is a tremendous read for anyone working in the criminal justice system. It charts the gestation, tortuous birth and ultimate sputtering demise of this sentencing phenomenon – an indefinite sentence similar to the existing life sentence, including the Parole Board requirement, but far broader, and more damning, in its reach. It was designed to act as, and perceived by judges as being, a judicial 'straitjacket' (p. 120).

Central to Annison's insightful and entertaining IPP 'story' (p. xi) are illuminating quotations from in excess of 61 'elite' interviews conducted with politicians, judges, senior civil servants, sentencing officials, 'policy participants' and pressure groups. While all quotations are anonymised, the author helpfully provides a broad designation, such as 'civil servant', 'Minister' or 'senior judge' to give context to the remarks.

Annison deftly illustrates how the IPP came into being at a time of punitive, pre-emptive, risk-oriented penalty in England and Wales, when New Labour was increasingly obsessed with dangerousness and public protection, constantly jousting with the *News of the World* to demonstrate its toughness on crime. A Conservative interviewee refers to Labour's 'slavish devotion' to Rebekah Brooks once it became known that she was Rupert Murdoch's 'right hand woman' (p. 42), while a penal reform group member commented on the destructive power of the media on policy formulation:

When I started at [group], I thought 'loads of what the government is doing is absolutely awful, this is madness.' But then you think, 'in terms of the public mood, what do ministers have to go on?' It's basically the media and their constituents. (p. 43)

* Reviewed by Jane Mulcahy, PhD candidate, University College Cork.

Annison gives considerable attention to the importance of ‘the public voice’ and the perpetual references to ‘the public’ during debates about the necessity of the sentence, despite the fact that ‘the public’ was excluded from the policy-making process. His account of this ‘illusory democratization’ and desire on the part of Ministers to ‘manage public opinion’ (p. 42) is one of the most interesting aspects of the IPP story. One Labour adviser stated:

Did we sit around reading focus groups and reading opinion pools and stuff all the time? No. Did we listen to what newspapers said? Yes. Because newspapers are read by people and they influence them. Did [the minister] listen to his constituents ...? Yeah, absolutely. (p. 42)

What emerges very clearly from Annison’s book is the role played by the so-called Westminster tradition (p. 72), which is deeply hierarchical and closed. Annison skilfully describes how the IPP evolved as the ‘the strategic centre in Downing Street’ and the Cabinet Office became more pronounced (p. 51). According to a pressure group representative:

It was absolutely clear that the driver for policy was Number 10 and that ministers really had very little influence over what was going on ... it was a highly centralised policy system ... it all came from the politburo. (p. 96)

Despite recognition by officials that it was right and constitutionally proper for policy matters to be the purview of Ministers, various interviewees describe the tension that may emerge between a civil servant’s duty to his master, the Minister (no matter what daft, destructive ideas he wants speedily introduced into legislation) and his sense of duty to the public interest, or indeed his own conscience, despite the comfortable anonymity of his office. According to a Home Office official, ‘They are the politicians and our job is to serve them ... the “servant” part [in “civil servant”] is not accidental’ (p. 72).

Other interesting aspects of the IPP saga include the failure of the Home Office to address, or clearly and unambiguously publicise, the dangers of the IPP in advance of its introduction (see p. 63). Regarding prison population projections, the Home Office’s *Correction Services Review* (2002) estimated that the IPP sentence would require approximately 950 extra prison places per annum (p. 63). However, senior

Labour politicians stated that roughly 900 extra prison places *in total* would be required for IPP prisoners (p. 65). The confusion (deliberate or accidental) surrounding the '900 statement' caused MPs and penal reform advocates to be more muted in their opposition to the IPP sentence than they would have been had they had a clear picture of the likely explosion in numbers (p. 66) and the toll it would take on the Parole Board.

Home Office officials readily admitted that they got the release rate horrendously wrong, assuming that people on short tariffs would get out within a reasonable period of time when in fact they were kept in prison for 'five times past that short tariff' (p. 64).

Annison's account of the efforts of the senior judiciary to temper the worst excesses of the IPP sentence in Chapter 5 is absorbing, especially for lawyers. As regards the stream of judicial review cases taken against the Parole Board due to delays in parole hearings, a member of the Parole Board confessed to Annison that judicial reviews 'are very, very useful at times' (p. 87).

Although Ken Clarke abolished the sentence in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the abolition was not retrospective. The Government took the view that this would be inappropriate since the sentence was predicated on notions of dangerousness and risk management in the first instance. The IPP inflicts lingering suffering on 4000+ prisoners and families (see <http://ippfamilycampaign.blogspot.ie>) who remain subject to its strictures. There has been no amnesty, commutation of sentence or other creative effort to right the wrongs done to those unjustly sentenced under this scheme: for example, those who served well in excess of the 'tariff' set by the sentencing judge but were unable to demonstrate their suitability for release due to a combination of insufficient access to rehabilitative programmes and Parole Board delays. A cautionary tale indeed.