

Weak penal review glosses over prison problems

Kevin Warner

OPINION

[This article appeared in *The Irish Times* on 23 October 2014]

It is easy for the Minister to promise the implementation of a report that fails to take account of reality.

A focus on punishment among politicians and administrators over the past two decades has left us with a prison system that is a morass. Our prison population is now double what it was in 1995, going from just over 2,000 to about 4,000. Most Irish prisons are too large, overcrowded and dysfunctional; they are very costly warehouses of unacceptable conditions.

While an independent review of the Department of Justice and Equality severely criticised its “closed, secretive and silo driven culture”, less attention has been paid to a further review issued in September on one key segment of the Justice world, the penal system.

In relation to this recent report, Minister for Justice Frances Fitzgerald has said: “In the past, we have had plenty of reports but not enough implementation. I will not let this be the case with the Penal Policy Review”. Referring to the ignored Whitaker report of 30 years ago, she said there now exists “the deep-rooted determination and political will to make change happen in penal policy”. Unfortunately, the Strategic Review of Penal Policy fails to address many of the deep-seated problems in Ireland’s prisons, and in many instances fails to even acknowledge them.

While the group which produced that report does recognise that Ireland has resorted too much to imprisonment as a sanction, and while it makes some recommendations that may lower prison numbers, it fails to set a clear and significant target to which the prison population should be reduced. This vagueness will surely let Justice officials (who predominated on the review group) and politicians off the hook.

Stronger reports

In the past, by contrast, stronger reports set serious limits to the number of men and women we should hold in prison. This was so of the Whitaker Report in the 1980s, the Department of Justice’s *Five Year Plan* in the 1990s, and the *Oireachtas Report on Penal Reform* of 2013.

The Oireachtas Report proposed that Ireland follow a Finnish model and cut its prison population by one-third; based on 2012 figures, this would allow about 2,800 in prison. Moreover, the Oireachtas members recognised the extent of the escalation in prison numbers since the 1990s. The review group does not.

The recent report is also undemanding in relation to prison conditions. Whereas Whitaker set out very clear “basic living conditions” for those in prison, the review group fudges the issue – and, in fact, welcome a plan for a new prison in Cork that will replicate substandard conditions. Underpinning this approach is a failure, once more, to recognise the extent of the problem: the fact that half of all prisoners are ‘doubled-up’ in cells, in breach of European Prison Rules; the fact that half must defecate in the close presence of others (making a nonsense of the prison service’s claim to treat them with dignity); the very excessive lock-up time affecting most prisoners; and the failure to ensure sufficient purposeful activity, especially in larger prisons.

There are some positive recommendations, such as the approach it suggests for women. However, the review group fails to recognise that a similar approach is needed for another vulnerable and even larger group: 18-21 year-old young men, 225 of whom were incarcerated as of May 2014. Virtually all of them are held in inappropriate closed adult prisons, often in utterly indefensible conditions.

Not only does the review group fail to acknowledge endemic problems, it describes some recent developments in a way that beggars belief. Take, for example, the “Incentivised Regimes Scheme”, which is actually a punitive arrangement introduced to cut every prisoner’s meagre gratuity, but which cuts some by more than others. The regular Irish Prison Service line, repeated in this report, is that this is necessary to encourage prisoners “to engage with” services such as education. Education has, for a long time, been by far the main structured activity in prison, and it has never been difficult to motivate those in prison to participate in education.

Severe segregation

The real problem is that oversized prisons mean the provision of education (and other services) per prisoner has been significantly reduced. This situation is made much worse by severe segregation in most prisons. Further, there are then widespread and ongoing access problems to even such reduced levels of provision on an almost daily basis.

An indication of how things really are can be seen from the fact that, in 2008, 141 prisoners were engaged in university-level education, but today just 36 participate, a quarter of the previous level. Such education has been shown to be critically important for long-term prisoners in particular.

It is easy for the Minister to promise the implementation of a report that fails to face up to reality, and that sets vague and weak targets. The reports by Whitaker and the Oireachtas Committee were far more insightful and actually faced up to the endemic problems of our prison system. A worry now is that this recent report will merely provide politicians and administrators with cover to ignore issues, and avoid the wiser prescriptions of the earlier reports.

Dr Kevin Warner was a teacher who spent most of his working life as Co-ordinator of prison education in the Department of Justice. He co-edited (with Eoin Carroll) Re-imagining Imprisonment in Europe: Effects, Failures and the Future (Liffey Press, 2014).