



The 2008 LAG annual lecture was given by Lord Ramsbotham in London in November. This is an abridged version of the speech, which examines the failure of the prison system to cut rates of reoffending, and suggests an alternative approach. The full text is available at: www.lag.org.uk.

What price imprisonment?

My subject, 'What price imprisonment?', has a question mark attached to it very deliberately. I think that there is no subject in this country which is so imperfectly understood as imprisonment and yet about which so many people have extremely strong ideas, often for reasons that are very personal. Either they have been a victim or they just happen to feel that every criminal ought to be locked up. What I want to do is to explore the word 'cost' and then explore that question mark.

Why do I say a question mark? Well, first, nobody knows the financial cost of imprisonment. They know how much money is voted every year by the Treasury for the conduct of imprisonment, but they do not know how much it would actually cost to conduct imprisonment in the way that the government says that imprisonment ought to be conducted. So I want to explore what I think ought to be included in the cost of imprisonment.

The other question mark relates to the social cost that goes with imprisonment: the residual costs, the impact on the people who are affected by imprisonment, what happens to prisoners when they come out and the impact on society of those prisoners. Society must ask itself what imprisonment is meant to do in order to lessen that social cost.

As you know, there have been prisons in this country ever since society really formed itself and initially they were small, local prisons into which people were put to await trial and then sentence. As the sentence was either corporal or capital they did not have to wait very long. That system, more or less, survived until Tudor

times. The next change was the repeal of the parish poor laws, resulting in every county being told to form a house of correction into which vandals and vagrants were sent, as opposed to being a burden on the parish.

Soon after that it began to be felt that there were people who did not deserve capital punishment but deserved something more than just a fine or being released. So transportation started to the American colonies at the end of the 16th century and continued until the American War of Independence. Then, luckily, Captain Cook discovered Australia, normal service was resumed and transportation went on until 1858 when Van Diemen's Land, or Tasmania, said 'no more'.

By that time there had been another look at the prison system in England. People were beginning to realise that, for some, a prison sentence was more appropriate than capital punishment. In 1843 the first convict prison in England, Pentonville, was built, influenced in particular by Jeremy Bentham's idea that work is an important part of resettlement.

In the mid-19th century, the idea arose to merge the local prisons and the convict prisons into one system, paid for out of the national budget. That came about in 1877 under the Prison Commission. I believe that our problems today start from that decision. That is because the local prisons housed short-term prisoners and those waiting for trial, close to their own communities. The convict prisons, of which more were built, housed the longer-term prisoner, whose needs are very different to those of the short-term prisoner.

As a result of the merger there are mixtures of different types of prisoner in

most of the prisons in the country. I would like to see an adjustment, as in America or Canada, where there are state prisons and federal prisons. The shorter-term prisoners are in the hands of the state and the longer term in the federal prisons, so that each type of prisoner can receive better treatment according to the length of sentence.

The Prison Commission continued until 1962 when the prisons were brought under the control of the Home Office. That was the second date, I believe, from when we can trace our troubles. Civil servants are neither trained nor motivated to be operational heads of operational organisations, particularly ones where it is vital that the public is told about what is going on. Civil servants do not do that, it is not in their ethos, there is no reason why it should be.

When New Labour came into government in 1997 Mr Blair stated he wanted to be 'tough on crime and tough on the causes of crime'. I think this is about the most disastrous statement that has ever been made about imprisonment because it has resulted in what I can only describe as penal populism, where each party has tried to be tougher than the other and they have cranked the whole thing up.

Instead of being tough on the causes, Blair became tough on the causers which is not the same thing at all. Being tough on the causes would have involved the whole of society in the conduct of imprisonment because all the causes of crime are actually in society: unemployment, lack of education, neglect, ill health, poverty, etc.

The New Labour government also looked at the criminal justice system: the courts, police, prisons and probation

service in particular. They realised that rather than being a system it was more like warring tribes competing against each other for ever diminishing resources. They decided to try and unify them by giving them one aim – to protect the public by preventing crime. Now I have no argument with that as an aim except, as lawyers and others know, it is not given to the right people because the criminal justice system does not click in until a crime has been committed. Police investigate, courts sentence, and then the prison and probation services administer the sentence.

Good idea, wrong people. A better aim for the criminal justice system would have been to protect the public by preventing reoffending because that does give a purpose, not necessarily to the police and the courts, but certainly to the prison and probation services. If you accept that the aim of the system is to prevent reoffending, then let us focus rather more on imprisonment.

What is imprisonment? What is it meant to be? What do people want from it? Well, I think there is no doubt that the first thing people think about imprisonment is that it is punishment. Yes, I agree with that but I prefer the words of Leon Brittan when Home Secretary who said ‘prison is punishment, it is not for punishment’. The punishment is the sentence awarded by the courts, ie, the deprivation of liberty for a period of time following a sentence. It is the courts’ job to punish – nobody else’s. Once the word punishment is allowed to filter down, prison officers start thinking that punishment is part of the treatment they ought to mete out. I was extremely distressed when in 2001 I found that the National Probation Service had put punishment at the top of its five purposes, when for the previous 100 years its job had been rehabilitation. It seemed to me a very dangerous switch.

Of course, there are other views about imprisonment: that it should provide retribution, or be a deterrent. I do not think prison works as a deterrent. I do not think there is any evidence that people do not commit crimes for fear of going to prison. I have always thought that it is better to look at a more practical view of what prisons should do, and I found the solution was actually there staring at us in the statement of purpose given to the Prison Service:

It is our duty to keep securely those committed by the courts, to treat them with



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humanity, and to help them to live useful and law-abiding lives in prison and on release.

The only argument I have with those words is that, as a soldier, I was taught that you should only have one aim, and there are three aims in that. So, I would suggest that it might be better to say:

It is our duty to help those committed by the courts to live useful and law-abiding lives in prison and on release, with the qualifications that they must not be allowed to escape and they must be treated with humanity.

I suggest that if the aim had been put in that way, security would have its proper place and not be considered the number one priority as opposed to doing things with and for prisoners which is what I believe prisons ought to do.

If you accept that you must ask yourself, how are they going to do this? Everything I am going to say now is actually happening somewhere, and one of my concerns is that it is not happening everywhere.

The first thing you have got to do when somebody is sent to you is to find out why they have come in, which includes assessing the risk that they represent to themselves, to the public or to other prisoners, and it includes the type of crime that they have committed. Should they be categorised as an armed robber or a sex offender? So you make that assessment and you realise that there are some things you can do to help them to be more law abiding.

Then you look at how to make them useful, and it is always seemed to me that

there are five aspects to this. Education: it is terrifying how many prisoners have appalling educational records – the statistic I use most is that 65 per cent have a reading age of less than eight. But what worries me too is the scourge of the 21st century which is the inability to communicate with each other, and is why I have been championing the cause of speech and language therapist assessments which go into the whole business of why they cannot communicate. Building relationships is much better done with the mouth than the fist, and if you can communicate you can tell people something about yourself which they can then use as the basis for the programme to help you to improve. So, education in its widest sense.

Second, job skills. Appalling numbers of prisoners have no skills at all, and I would like to see an assessment that includes an aptitude test – as much as anything else to find out what potential skills people have got, and see if you can make something of them.

Then you come to the social skills side, by which I mean being able to look after yourself. I found a marvellous course running in Northern Ireland called ‘Learning to live alone’ which seemed to be very sensible and I thought it ought to be on the curriculum of every secondary school in the country as well. It included a little bit of cooking, painting and decorating, electrical work, and parenting skills. The whole question of the skills needed to live in society should be looked at.

Next is mental health, which is alarming. In 1998 the Office of National

Statistics disclosed that 70 per cent of all prisoners were suffering from some form of identifiable personality disorder. That does not mean to say that they are all sectionable under the Mental Health Act but it does mean there is something you can identify which impacts on their behaviour. If you can identify it you can do something about it. The one constant you hear is that the very worst thing to do for anyone with a personality disorder is to lock them up all day doing nothing because it makes them worse. So that seems to me to be barmy.

Then, of course, the physical health. There are all the problems of musculoskeletal disease, they cannot stand up, they do not know how to breathe. There are all the blood-transmitted viruses: Hepatitis C, HIV, and so on. There is a lot you can do, and encouraging all the Well Man and Well Woman clinics as a natural part of prison life seems again to be sensible.

Finally, of course, there is the substance abuse – both drugs and alcohol – and the figures again are terrible. I mean 80 per cent had been using some illegal substance at the time that they are brought in. I have never understood why the Prison Service does not automatically test everyone when they come in because it is the only way to know the size of the problem. Some prisons only test those people who admit to having a problem, some only test volunteers, one or two test all. Then the Prison Service has its own ridiculous test called the Mandatory Drug Test which it claims tells it what is going on. It is a test of five per cent of every prison every month. I once went into a cell and there on the wall were nine certificates and I said to the man ‘what are they for?’. He said ‘I do not use drugs, they test me every month and that is my certificate for being free and no doubt if you come next month there will be a tenth’. I think that ought to be stopped and there ought to be compulsory tests, and prisoners should be given treatment according to the result of the test.

So, they are the five things: education, work, social skills, mental and physical health, and substance abuse. What you then need to do is to look at each individual and decide what it is that individual needs to live a useful and law-abiding life. You should then prioritise what you are going to do with each one of them according to the time available, the length of sentence, and the severity of the need. After the assessment, that programme should be carried out.

Then comes the most important of all – the transition. Whatever you have started must be carried on somehow. Drug treatment: it is no good just saying they will automatically be clean when they go out, they will not. The first person they see coming out of prison is very often the drug dealer, taking the money from them which they have got as their leaving allowance from the prison, and then off you go and they are back again. The support must be there otherwise you are wasting all the time and effort that has been spent in prison. Education can be continued, and so on.

If you accept imprisonment could protect the public in this way by actively reducing the risk of reoffending, let us look at the organisation required to make that happen. Here again I ask myself some questions about the organisation of imprisonment in this country. At the moment there is nobody responsible and accountable for each type of prisoner in this country with the exception of high-security prisoners, and the Director of High Security Prisons was only put in place because escapes in 1994 embarrassed the then Home Secretary.

But I contend that the reoffending or reconviction rate of prisoners coming out of prison is even more disgraceful and worrying than an escape because by and large escapees get picked up again. The fact that 67 per cent of all adult males, over 70 per cent of all 18-year-olds, and 80 per cent of 15 to 18-year-olds are reconvicted within two years of release is a disgrace. Any firm that had a failure rate like that would be out of business. The public ought to be saying, why are you not protecting us? Why are so many people reconvicted who have been in your hands and could have been helped? Just to introduce finance to show I have not forgotten about it, reconviction is currently assessed at costing around £12 billion a year, which is not a good return for the £2 billion or more spent on imprisonment.

In 1990 there were riots in Strangeways and another 23 prisons, after which a marvellous report on the riots was written by Lord Justice Woolf – one of the great penal documents, I think, of all time.¹ In this he identified that the three things most likely to prevent reoffending were a home, a job and a stable relationship. All these are put at risk by imprisonment so you must try to mitigate that risk. The best way to do that is to keep prisoners as near to home as possible so that their family can visit them, and local employers could perhaps get

involved in their job training so there was an opportunity for employment in their area when they came out.

Soon afterwards, the government published a white paper on imprisonment,² the only one to have been written in the last 60 years. The paper said that from now on we will work towards developing community clusters of prisons, as recommended by Lord Woolf. In other words, in each part of the country there will be enough prisons to house all the prisoners of each type from that part of the country, with the exception of high-security prisoners of whom there are not enough to justify a high security prison in each community.

Nothing has happened. Prisons are still organised in a haphazard grouping called an area, which is a clutch of prisons of different kinds under the charge of an area manager who is responsible for their budgets. That is the only direction that a governor of a prison gets. He is sent to govern a prison and he is told that he will get his orders from his area manager and that is about budgets. I once went into Parkhurst and I asked the governor what the aim of his prison was and he said ‘To save £500,000 by the end of the financial year’. That suggests to me that the focus of the Prison Service is entirely wrong. If prison governors are putting budgeting first they are not putting protection of the public first by the prevention of reoffending, as they should be.

There ought to be regional clusters of prisons. We have got government regions. We have got coterminus boundaries within them involving the courts and the police and health care and education, and the prisons can quite easily conform with that. Then a whole number of things could happen. For instance, chambers of commerce say they are more than happy to go into a prison, identify people who could fill potential skill shortages, and start training them in prison. They come out with a job to go to which has prospects.

Also, of course, if people are held more or less locally in a region it is easier to decide when and where they move. The problem with the present situation of overcrowding is that prisoners are sent all over the country according to where there is an empty bed, not because they ought to be going, for example, to do a course. Better planning could ensure that people move to where the courses are and do not leave until the course is completed. So you do not waste all the money that is currently wasted on courses that are either not filled or people have to leave

before they are completed. And, of course, you enable the prisoners to keep up with their families.

While I was thinking through all this Jack Straw kept on telling me when he was Home Secretary that he wanted me to league-table prisons. I said it is a pointless exercise. They are inspected every five years and what is the difference between a women's prison in Cumberland five years ago and a young offenders' establishment in Kent today? What is it going to tell you? Absolutely nothing. It is wasting your time, my time and I have no intention of doing it. What I will do though is tell you whether a prison is healthy or not based on my interpretation of what a prison should do.

There are four aspects of a healthy prison. The first is that everyone is and must feel safe, that is staff, prisoners, visitors, and people going in there for any purpose. The second is that everyone must be treated with respect. It is not just calling them 'Mr' but it is things like providing health care, and making certain that visitors are treated properly. Prisoners are fellow human beings, you have got a job to do with and for them during the time they are there.

The third is that they must be encouraged to improve themselves and given the opportunity to do so through access to work and education. The final thing is that they must be prepared for release and helped to maintain contact with their families. I add a rider to say that in preparing them for release I think that there is a job to be done of preparing the communities to receive them when they come back.

Well, that has been accepted and prisons have now been reported for the last nine years according to whether they are healthy or not. I am encouraged by that because the governors understand it. The governors have got clear ideas as to what they need to do to earn that healthy rating, if you like, because it is all practical. It is to do with prisoners, and what is happening to them, which brings us back to cost. But what worries me when I look at the cost of what is needed to do that programme, with and for every person, is that the cost assessment is only being carried out in the private sector prisons which are having to do these sums in order to compete for contracts. It seems to me that that is foolish because it is the public sector which ought to be assessing these costs.

I think that if they were required to produce a programme for each and every

prisoner to have a full, purposeful and active day relating to the assessment of what is needed to protect the public by preventing crime, they would find a whole lot of things that they are currently doing are unaffordable and silly. The first thing I would do is get rid of the National Offender Management Service. It is an absolute nonsense: 1,647 civil servants and several tiers of management but nobody actually responsible or accountable for looking after different types of prisoners. There is no longer a Director General of the Prison Service. There is no longer a National Probation Service. There is no longer a Director of Probation. Well, this seems to be nonsense. They are operational services and they need operational heads.

Second, I would end the business of having national prison population management and delegate the responsibility out to the regions, saving millions. At the moment, the expense of putting people all over the place and arranging family visits and so on adds up to a completely unnecessary additional cost.

Third, there are all sorts of volunteers who would come in and help. For example, there is an admirable voluntary education scheme at Feltham where individuals come in and teach one to one. You could have that in every prison in the country and it would not cost you a thing. Or one of the best programmes going is

called 'Toe by toe' where prisoners teach other prisoners to read.

There are all sorts of ways you could do this if you knew that you were being judged on producing this full, purposeful and active day with the aim of helping people to live useful and law-abiding lives. My contention is that the social cost of not doing this is the huge reoffending rate, and it also puts the public against anything that is done purposefully with and for prisoners because they see no result, all they see is the reoffending. When people say there will be a cost, yes, but for heaven's sake let us work it out because my contention is we cannot afford to pay the social cost of not doing it, and that is the question that I would put to government.

- 1 *Prison disturbances: April 1990*, Cm 1456, HMSO, 1991.
- 2 Home Office, *Custody, care and justice: the way ahead for the prison service in England and Wales*, Cm 1647, HMSO, 1991.

■ Lord David Ramsbotham was appointed a crossbench member of the House of Lords in May 2005, where he majors on penal reform. A former General, Lord Ramsbotham was appointed HM Chief Inspector of Prisons in 1995 until 2001, during which time he visited and/or inspected every prison in England, Wales and Northern Ireland, as well as prisons in Australia, Canada, Germany, the Caribbean Overseas Territories, Scotland and the USA.

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