From England

JUSTICE THAT RESTORES

by David Ramsbotham

> *Make me a clean heart, O God:*
> *and renew a right spirit within me.*
> *Cast me not away from they presence:*
> *and take not thy holy Spirit from me.*
>
> Psalm 51, verse 10.

This is the sixth year in which the third week in November has been called Prisons Week as opposed to Prisoners Week. I welcomed the change because it encouraged focus on all that goes on in our prisons not merely on those who have been sentenced to a period of imprisonment. But I took issue with the Prison Service's explanation that the purpose of the week was to encourage Christians to focus their prayers and thoughts on prisoners, prisoners' families, the victims of crime and those who work with prisoners and their families. My quarrel was about the inclusion of the word 'Christian', which may seem a strange thing to say from a pulpit in a Christian school chapel. But by no means all prisoners, or their families or those who work with them, are Christians. There are now multi-faith ministries in prisons, catering for all religions, beliefs, denominations or what you will, including paganism. So I hope that both Christians and non-Christians are united in their thoughts and prayers this Prisons Week.

When I think about the penal scene, I often find that some words from The Tempest come to mind:

> *Be not affeared this isle is full of noises,*
> *Sounds and sweet airs that give delight and hurt not.*

In relation to current government practice, I find myself parodying them to read:

> *Be not affeared this isle is full of sound-bites,*
> *Statements and sweet talk that promise much but lead to no action.*

Let me expand on that in relation to the Criminal Justice System and particularly the place of imprisonment within it.

About 18 months ago I attended what was called a Restorative Justice Conference in Pentonville Prison. The principal participants were three young women, whose flat had been burgled, the young man who had burgled them, and a young police officer, in plain clothes, who acted as Chairman. In attendance were a number of prison staff, the prison chaplain and me as an observer. The conference began with the young women describing what the burglary meant to them and how upset they had been. Then the young man, who was aged 26, was asked to explain his crime.

He explained that his mother had been 13 when he was born, and that he had had a very disrupted childhood, including a number of foster parents as well as periods in care. He had had no schooling worth the name, having been excluded for fighting. Eventually he took to roaming around with a number of others in a similar situation, began drinking heavily, which he still did, and then took to drugs. He burgled to feed his drug habit. He had three children, all by different girls under the age of 16. His eldest daughter, then aged 11, had really shaken him by calling him a 'Smackhead', but he did not really live with any of what could be called his family. By now both the burglar and the burgled had shed many tears.

The police officer, who had conducted the conference in a masterly fashion, then turned to discussing what the burglar could do both to expiate his crime and to help him in the future. It was agreed that he should go on a reading course, because, like 65 per cent of all adult male prisoners, he had a reading age of less than 8 – in fact he could not read at all. He should enrol in an Alcoholics Anonymous course to tackle his drinking and should undergo drug treatment. This he readily agreed to do.

The young women then added that they would like to hear from him monthly, telling them how he was getting on. Initially this would have to be dictated, but there would come a time when he could begin to do it himself. Both parties left in an optimistic frame of mind.

When they had gone, I asked the prison staff how much of the agreed programme could be delivered in Pentonville. They admitted that although there were reading and drug treatment courses in the prison, and Alcoholics Anonymous came into the prison once a week, there were so many potential takers that he had no chance of getting on to any of them. I must admit that I found this disgraceful and told them so. I reminded them of the spirit in which the young women had come forward and the optimism with which they left, no doubt feeling that they had done something for someone whose life, so far, had been so unsatisfactory. The burglar had left thinking that, at

last, something positive lay ahead for him. By knowingly allowing all that to be said, they were undermining the whole purpose of what is called Restorative Justice. What on earth was the point of going through what amounted to a charade, when they knew that, in reality, nothing could result?

I begin there because you will all remember Mr Blair's statement that he intended to be 'tough on crime and tough on the causes of crime'. No one could argue with that. The causes of crime - poverty, homelessness, unemployment, mental disorder etc – lie in society and governments are in a unique position to be able to address them. Unfortunately however, he seems to have found an 'r' on the floor of Downing Street and, far from being tough on the causes, he and his Ministers appear to want to be seen to be tough on the causers of crime, which is by means the same thing. If I had a wish this Prisons Week it would be that he would go back to his original theme.

On taking office in 1997, the government, found that the Criminal Justice System was not a system at all, rather a collection of warring tribes competing for ever-diminishing resources, without apparently being aware that, by not working together, they were preventing each other from maximising their contribution. A unifying aim was given to it. 'Protect the public by preventing crime' is, again, a sentiment with which no one can disagree. But it is addressed to the wrong people. The Criminal Justice System does not prevent crime. It clicks in when a crime has been committed. Police investigate, courts sentence, Prison and Probation Services administer the sentence. Crime, and its prevention, takes place in Society. Therefore the aim of preventing crime is directed at all of us. We are the people who can prevent crime, by the attitude and actions that we adopt towards it.

The aim of the Criminal Justice System is surely 'to protect the public by preventing re-crime', or re-offending, or, as memorably put by the Governor of Lancaster Farms YOI, 'prevent the next victim'. If that is accepted, then the Statement of Purpose of the Prison Service makes sense. 'It is our duty to keep securely those committed by the courts, to treat them with humanity and help them to lead useful and law-abiding lives, in prison and on release'. In the Army, I was taught that you should only have one aim, and there are three in this. In line with the aim of protecting the public by preventing re-offending, I would give the Prison Service the aim of:

> *'Helping prisoners to live useful and law-abiding lives, in prison and on release, with the qualifications that they must not be allowed to escape and must be treated with humanity'.*

How is this to be done? Above all the Prison Service must remember that every prisoner is an individual. The first thing to be established is what it is that has prevented each individual from living a useful and law-abiding life until then. This means assessing offending behaviour – sex offending, armed robbery etc – and also the degree of risk a prisoner presents to the public, to other prisoners and to him or her self.

Then the five parts of 'usefulness' must be looked at. The first of these is education. I am not going to bombard you with statistics, but it has already been mentioned that 65 per cent of all adult male prisoners have a reading age of less than 8. Many will be suffering from a variety of learning difficulties, which can be identified and treated. The second is job skills, remembering that on average 80 per cent were unemployed at the time of their arrest. The third, social skills, boils down to the title of a course I found being run in Belfast - 'Learning to live alone'. Can they look after themselves? It also includes parenting skills.

Then health. 70 per cent of prisoners are suffering from an identifiable personality disorder. This does not mean that they are all certifiable, but it does mean that some identifiable and treatable factor is affecting their behaviour. The mental and physical health of prisoners is a public health issue, because all except 26 of the 75,145 currently in prison are going to come out. We are entitled to ask in what state of mind and body they are going to be when they come out. Blood transmitted viruses, such as HIV or Hepatitis C, resulting from substance abuse, and a new strain of TB currently only present in prisons, are matters of public interest. Finally, there is substance abuse, remembering that 80 per cent of all those received into prison are using some illegal substance at the time.

Out of all this, I believe that prisons should be required to make individual action or sentence plans, which amount to individual programmes for tackling the causes or problems that have been identified, in an order of priority based on the severity of the symptom and the length of sentence. Not every prison will be able to provide programmes to tackle all requirements, but that does not matter. What matters is that every identified problem can be tackled somewhere within the system.

The stage after assessment is, of course, delivery of individual programmes. I have always called for every prisoner to be put through a full, purposeful and active day. This is not a soft option either for prisoners or staff. Being locked up doing nothing is the soft option for both, except mentally, for

prisoners. Incidentally I believe that full, purposeful and active days are the best antidote for drug use and suicide in prison. Busy people do not have time for introspection or need artificial stimulus to ward off boredom.

I also happen to believe that keeping prisoners locked up, doing nothing, is utterly irresponsible. Deprivation of liberty, for a period determined by the courts, is Society's punishment for an offence. It is not the business of prisons to inflict further punishment, which can only amount to cruelty. If the aim of protecting the public by preventing re-offending is to be achieved, prisons must use the period of a sentence, on behalf of the public, to challenge the behaviour that is behind the crime and provide the prisoner with the means to live a useful life on release – education, job and social skills, sustainable mental and physical health disciplines and breaking the drugs habit. That seems to me to be humane criminal justice in action.

All this leads up to the final task of preparing prisoners for release, or their restoration in the world. This means attending to such details as where they are going to live as well as arranging job interviews, but it must include the preservation of families and their preparation for receiving the prisoner back into society. The three things said to be most likely to prevent re-offending are a home, a job and a stable relationship. All three are put at risk by imprisonment. Every possible step must be taken to ensure that risk is both recognised and mitigated.

Today's prisons are characterised by two main facts – they are overcrowded and under-resourced. The problem with overcrowding is not so much that too many prisoners are doubled up in cells meant for one, which can be put up with overnight. It is that there is a shortage of activities, meaning that they have to stay in their cells that are little more than lavatories, by day as well.

These problems are compounded by the wilful behaviour of our two main political parties, who seem hell-bent on cranking up the antisocial behaviour agenda, making ever more specious promises about what they will or will not do. They give the impression that they think that justice is seen to be done if prisoners are behind bars and the key thrown away. They do not seem to consider that the fact that 58 per cent of all adults, 78 per cent of all those aged between 18 and 21 and 88 per cent of all those aged between 15 and 18 re-offend within two years of release is an indictment of the present system, for which they are responsible. A far cry from Winston Churchill's famous observation that:

'The mood and temper of the public in regard to crime and criminals is one of the most unfailing tests of the civilisation of any country.'

Prisons, like hospitals, are the acute part of a system, where treatment takes place. Hospitals act on the presumption that patients want to be made better. The present record prison population, far from being, as the Daily Mail would have us believe, a mixture of paedophiles, arsonists and mass murderers, consists of people who are said to be bad, mad or sad. Of these by far the smallest number are the bad, who need a different form of restorative justice if the public is to be protected from their crimes. I venture that some even think in the terms of my text:

Make me a clean heart, O God:
and renew a right spirit within me.
Cast me not away from thy presence:
and take not thy Holy Spirit from me.

Having parodied Shakespeare at the start, and on the assumption that Mr Blair is observing the spirit of Prisons Week, can I close by parodying the writer of Psalm 51?

Make a clean break from your current policies, O Mr Blair; and renew the right spirit within your Ministers and officials.

Cast prisoners not away from thine agenda for improving our society; and take not the opportunity of helping them to live a useful and law-abiding life from them.

Too many causes of re-crime are embedded in the prison system, for which you are ultimately responsible!

This is the text of a sermon delivered in Magdalen College School Chapel, Oxford, in Prisons Week. 25th November 2004

Sir David Ramsbotham was the Chief Inspector of Prisons and is a Patron of Justice Reflections