Dictionary of Prisons and Punishment

Edited by

Yvonne Jewkes
and Jamie Bennett

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List of entries

List of contributors

Jenny Adams Young, National Mother and Baby Unit Co-ordinator, HM Prison Service.

Rob Allen, Director, International Centre of Prison Studies.

Helen Arnold, University of Cambridge.

Lorraine Atkinson, Project Manager, Howard League for Penal Reform.

Dr Christie Barron, Simon Fraser University, Canada.

Chris Bath, Head of Projects, UNLOCK, the National Association of Ex-offenders.

Jamie Bennett, Prison Manager, HM Prison Service.

Hindpal Singh Bhui, Inspection Team Leader, HM Inspectorate of Prisons.

Simon Boddis, Head of Regimes Services, HM Prison Service.

Gill Brigden, Safer Custody Group, NOMS.

Dr Shane Bryans, Assistant Director of the Government Office for the West Midlands, former Prison Governor.

Carol Buckland, Voluntary Sector Unit, NOMS.

Dr Ros Burnett, University of Oxford.

Dr Jonathan Burnside, University of Bristol.

Michelle Butler, Dublin Institute of Technology.

Professor Rob Canton, De Montfort University, Leicester.

Dr Eamonn Carrabine, Dublin Institute of Technology.

Michael Cavadino, University of Central Lancashire.

Paul Cavadino, Chief Executive, Nacro.

Leonidas Cheliotis, University of Cambridge and University of London (Queen Mary and Westfield College).

Helen Codd, University of Central Lancashire.

Dr Roy Coleman, University of Liverpool.

Professor Andrew Coyle, King's College London.

Dr Elaine Crawley, University of Salford.

Simon Creighton, Human Rights Lawyer and Partner, Bhatt Murphy.

Dr Ben Crewe, University of Cambridge.

David Crighton, Deputy Chief Psychologist, NOMS.

Frances Crook, Director, Howard League for Penal Reform.

Jennifer DiCastro, American University, Washington, DC.

James Dignan, University of Leeds.

Anita Dockley, Assistant Director, Howard League for Penal Reform.

Dr Deb Drake, Open University.

Joyce Drummond Hill, Head of Internal Audit, HM Prison Service.

Dr Clare Dwyer, Queen's University, Belfast.

Kimmett Edgar, Prison Reform Trust.

Dr Tomer Einat, Emek Yezreel College, Israel.
Charles Elliott, Economist, formerly University of Cambridge.
Damian Evans, Governor, HMP The Mount.
Dr Stephen Farrall, Keele University.
Finola Farrant, University of the West of England.
David Faulkner, NOMS Research Associate, University of Oxford.
Dr Laurie Feehan, Edge Hill University.
Martina Feilzer, University of Oxford.
Dr Michael Fiddler, University of Greenwich.
Richard Garside, Director, Centre for Crime and Justice Studies, King's College
    London.
Dr Elaine Genders, University College London.
Steve Gillespie, Strategy and Performance Group, HM Prison Service.
Professor Barry Goldson, University of Liverpool.
Laura Graham, Safer Custody Group, NOMS.
Simon Green, University of Hull.
Jim Haines, International Centre for Prison Studies, KCL, and Independent
    Monitoring Board, HMP Wymott.
Peter Hammersley, Chaplain, HMP Hewell Grange.
Nigel Hancock, Safer Custody Group, NOMS.
Professor Craig Haney, University of California.
Sinead Hanks, SmartJustice.
Chris Hartley, Land-based Activities, HM Prison Service.
Dr Joel Harvey, London Metropolitan University.
Sophie Holmes, University of Lancaster.
Keir Hopley, Head of Sentencing Policy and Penalties Unit, Ministry of Justice.
Professor Yvonne Jewkes, University of Leicester.
Professor Robert Johnson, American University, Washington, DC.
Dr Helen Johnston, University of Hull.
Martin Kettle, Head of Case Management, HMP Whitemoor.
Professor Roy King, University of Cambridge.
Professor Alison Liebling, University of Cambridge.
Monica Lloyd, Inspection Team Leader, HM Inspectorate of Prisons.
Nancy Loucks, Independent Criminologist.
Juliet Lyon, Director Prison Reform Trust.
Professor Morag MacDonald, University of Central England.
Ruth Mann, Head of Sex Offender Treatment and Domestic Violence, HM Prison
    Service.
Dr Paul Mason, University of Cardiff.
Dr Shadd Maruna, Queen's University, Belfast.
Simon Matthews, Area Drug Strategy Co-ordinator, High Security Prisons, HM
    Prison Service.
Kirsten McConnachie, Queen's University, Belfast.
Professor Diana Medlicott, Buckinghamshire Chilterns University College.
James Mehigan, Open University.
Dr Alice Mills, University of Southampton.
Professor Rod Morgan, University of Bristol and former Chair, Youth Justice Board.

Professor John Muncie, Open University.

Professor Mike Nellis, University of Strathclyde.

Nigel Newcomen, Deputy Chief Inspector, HM Inspectorate of Prisons.

Tim Newell, Butler Trust Development Consultant, Butler Trust, and former Prison Governor.

William Payne, Office of the Children's Champion, Home Office, Border and Immigration Agency, former Prison Governor.

Dr Coretta Phillips, London School of Economics.

Professor John Pratt, Victoria University of Wellington, New Zealand.

Stephen Pryor, former Prison Governor.

Abigail Rowe, Open University.

Professor Mick Ryan, University of Greenwich.

Dr David Scott, University of Central Lancashire.

Jane Senior, Manager, Prison Health Research Network and the North West Forensic Academic Network.

Dr Mairead Seymour, Dublin Institute of Technology.

Stephen Shaw, Prisons and Probation Ombudsman.

Professor Joe Sim, Liverpool John Moores University.

Andy Simpson, Control and Restraint Training Centre, HM Prison Service.

Dr Roger Smith, De Montfort University, Leicester.

Enver Solomon, Centre for Crime and Justice Studies, King's College London.

Emeritus Professor Keith Soothill, University of Lancaster.

Professor Richard Sparks, University of Edinburgh.

Baroness Vivien Stern CBE, International Centre of Prison Studies.

Alisa Stevens, University of Oxford.

Duncan Stewart, Senior Research Officer, Research, Development and Statistics, NOMS.

Graham Towl, Chief Psychologist, NOMS.

Alan Tuckwood, HM Prison Service Head of Catering and PE (AT).

John Wagstaffe, Legal Adviser to the Criminal Cases Review Commission.

Dr Azrini Wahidin, University of Central England.

Roy Walmsley, International Centre of Prison Studies.

Michael Wheatley, Head of Reducing Reoffending Unit, High Security Prisons, HM Prison Service.

Sue Wilkinson, Librarian, HMP Birmingham.

Glynis Williams, Family Services Manager, HMP Styal.

Professor David Wilson, University of Central England.

Emeritus Professor Philip Zimbardo, Stanford University, California.

The above list of contributors shows the position they held at the time of writing their entry.

About this book

The *Dictionary of Prisons and Punishment* is the first book of its kind in two important respects. Not only does it represent the first definitive cataloguing of key terms, concepts, theoretical approaches, institutions and policies associated with prisons and punishment, but it is also a unique collaboration between scholars and practitioners working in the fields of prisons and penology. Specifically, the Dictionary brings together contributions from academics; personnel within the Prison Service, Home Office, Ministry of Justice and National Offender Management Service; prison psychologists; health professionals; chaplains, members of prison charities and reform groups; and prison officers, managers and governors. The book's editors also combine academic and professional experience and, given this joint enterprise, it is perhaps unsurprising that the Dictionary has been compiled with two main readerships in mind.

First, it is aimed at people who work in prisons or who work with offenders in other capacities and environments. Contemporary prison practice is undergoing many challenges and is developing rapidly. In addition to the organizational and structural changes that have occurred in the past decade, there have been numerous developments in the ways that those who work in and around prisons understand and undertake their professional duties. This not only brings an increased emphasis on skills and qualifications but it has also introduced a new set of ideas and concepts into the established prisons and penal lexicon. At the same time, courses on prisons and penology remain important components of criminology and criminal justice degrees, and the second core readership are likely to be students on such programmes. It is arguable that those keen to further their knowledge of imprisonment are not as well served as students in other areas of criminology and criminal justice (although see recent contributions by Coyle 2005b; Jewkes and Johnston 2006; Bennett *et al.* 2007; Jewkes 2007c for useful introductions to prisons). The *Dictionary of Prisons and Punishment* is intended to be an essential compendium for undergraduate and postgraduate students seeking to pursue intellectual inquiry in this fascinating and fast-moving area.

As the spheres of prison scholarship and prison practice increasingly merge, it is probable that most of the contributors to this Dictionary will themselves use it as a source of reference. The brief to contributors was a challenging one. Dictionary definitions are, by their very nature, required to be thorough and wide ranging while, at the same time, succinct and to the point. The entries are thus intended to be comprehensive yet easily digestible, sophisticated yet accessible. It is also hoped that they stimulate further interest and research. Each entry concludes with a list of 'related entries' and 'key texts and sources' to which reference can be made and further inquiry followed up. At the same time, however, we have encouraged writers to

express their own views in their own way, and we recognize the possibility of inconsistency – particularly, perhaps, between the contributions of an academic author and a practitioner writing on similar themes. Indeed, in some cases we have deliberately set up debates between approaches that differ theoretically or methodologically, or have invited contributors with divergent points of view to write on similar subjects. We believe that such an approach accurately reflects the complex and stimulating nature of prison studies and the breadth of contemporary penology. We think that scholars and practitioners (and, indeed, those who count themselves as *both*, as many contributors to this volume can rightly claim) greatly inform and enhance each other's work. Moreover, readers who follow up the suggested 'related entries' should be able to form their own opinions, while recognizing the diversity of knowledge, experience and understandings that underpin the writing of the definitions contained within these pages. As editors, we may not endorse all the opinions and views expressed in this volume, but we do maintain that our contributors are, in their different ways, ideally – in some cases, uniquely – placed to *have* an opinion on the topics they have been asked to write about.

While the focus is very much on prisons, it is a *Dictionary of Prisons **and** Punishment* in recognition of the changing nature of the criminal justice system: the restructuring of the Prison Service and Probation Service into an integrated system called the National Offender Management Service (NOMS); the splitting of the Home Office into two separate departments, with a new 'Ministry of Justice' taking responsibility for prisons, probation, criminal justice and sentencing; and the current political and penal rhetoric promising a 'joined-up' approach to punishing offenders and reducing rates of reoffending. The focus on punishment in the title is also intended to convey the notion that this Dictionary offers accessible definitions of penological terms – concepts, ideas and policies – that take us beyond the prison gates to the community and society at large.

The Dictionary's primary geographical focus is England and Wales, although many contributors refer to prison systems, research, practice and policy in other parts of the UK and internationally. While we can make no claim to have considered punishment in other countries in any systematic or comprehensive sense, we do believe that this Dictionary represents the first time a single book has covered all the major aspects of penology in a format that conveys the complexities of prisons and punishment in a clear, concise and engaging manner. It should be noted, however, that the decision to split the Home Office and to create a new Ministry of Justice came into being after most of the entries had been written. While every effort has been made to amend and replace all references to the Home Office, some of the developments are still in transition. Readers need to be aware that the Prison Service and NOMS are now the responsibility of the new ministry (which has an entry here) and to bear this in mind, especially where there is a reference to the role of the Home Office.

This volume is part of a new series of Dictionaries published by Willan that cover key aspects of the criminal justice system, providing an indispensable resource for reference and research. We sincerely hope that the *Dictionary of Prisons and Punishment* will meet the diverse needs of people studying penology, working in prisons, professionally interacting with prisoners and shaping penal policy, for many years to come.

Yvonne Jewkes
Jamie Bennett

Introduction and overview

Prison today has such a central position in the criminal justice system that, for many, it is difficult to conceive that this has not always been the case. Prisons have been a feature of the criminal justice system since ancient times when they were administrative bodies for the collection of fines and also provided a holding place for offenders during trial or awaiting corporal or capital punishment. The emergence of prisons as we think of them today – as places explicitly designed for the infliction of punishment – was a relatively late development, taking place in the nineteenth century.

So how did prisons come to occupy their current position as the primary form of punishment (symbolically if not literally)? Pragmatically, the disappearance of transportation in the mid-nineteenth century following the loss of the American colonies and the emergence of Australia as a thriving and prosperous nation which no longer wanted the 'contaminating' influence of Britain's convicts meant that alternative punishments had to be sought. It has been argued by some writers that the shaping of prison into a practical institution for this purpose arose from the influence of campaigning reformers, such as John Howard (1726–90), who visited prisons throughout the UK and Europe, documenting conditions and lobbying for improvements. Managing prisons became a respectable profession, attracting altruistic, publicly minded men capable of speaking out and influencing reform (Coyle 2005a; Emsley 2005). From this rather optimistic perspective, then, prisons were seen as humanitarian, hygienic and progressive institutions, replacing the disorder and squalor of the old gaols and bridewells, and the barbaric practices of transportation and public execution. A less positive interpretation of these developments is that prisons were the product of a practical and moral crisis following the American Revolution of the 1770s (McGowen 1995). The loss of the main destination for transportation, the humiliating defeat of Britain in the War of Independence and the rise of revolutionary, democratic ideals in the face of an outdated and oppressive power all combined to force Britons to rethink how social institutions, including criminal justice, were managed.

These accounts, however, provide only a partial explanation for the transformations in the criminal justice system. In particular, they do not separate out the disappearance of one mode of punishment with the emergence of another. The decline in transportation can be understood on pragmatic grounds in as much as the loss of the American colonies and eventually the growth of national identity in the Australasian colonies meant that this form of punishment became progressively less available. In addition, the spectacles of torture and execution came to be seen as undesirable, and their disappearance from the public gaze was widely viewed as part of the 'civilizing process'.

The question still remains, however: given the gap that emerged in criminal justice when transportation and public execution 'disappeared', why did the prison become the preferred method to fill it? It is here that the French sociologist, Michel Foucault,

and his book *Discipline and Punish: The Birth of the Prison* (1977), has been so influential. Foucault argues that the prison as a regimented, routinized, regulated and closely observed institution provided a form of punishment that fitted with the emerging values and methods of control employed in the industrial age. Prisons – like schools, hospitals and factories – can be viewed as sites of control and regulation designed to subdue their occupants while operating in the economic interests of the governing class. They are thus a product of the socio-economic conditions of the time. Furthermore, while imprisonment (as compared with transportation or execution) might be regarded as initiating 'the gentle way in punishment' (Foucault 1977: 104), the retreat of punishment from public spectacle to hidden practice might itself be called into question as a civilizing force. This tension between the perceived civilizing movement and the desire to control crime and criminals has been a constant feature in the history of imprisonment, and is central to understanding the development of prisons. It is a tension that frequently erupts in inquiries, public debates, changing policies and practices, and has been described as so deeply embedded in our prison system that it is 'one of its conditions of functioning' (Foucault 1977: 235).

THE EMERGENCE OF THE MODERN PRISON

In the first half of the nineteenth century, many new prisons were built, including Millbank (1816) and Pentonville (1842). With their innovative architectural designs and regimes, they exemplified the experimentation and intellectual engagement of the era (Jewkes and Johnston 2006). Although the nineteenth century was a period in which conditions generally improved, and legislation was passed to standardize facilities, there was also public debate about whether prisoners were being treated with excessive leniency. This debate was played out in Parliament until the end of the century when the famous Gladstone Committee (1895) concluded that there should be a duality of purpose, achieving both deterrence and reform. The prison experience of the era reflected this dichotomy, with its mixture of uniformity, tight regulation and silence creating a punitive environment, underpinned by a mission to break the habits of the past and encourage prisoners to repent and reform.

The second half of the Victorian era saw the nationalization of the prison system under the Prisons Act 1877, put into effect under the leadership of Edmund Du Cane. The new structure was motivated by financial expediency achieved through rationalizing the estate and improving consistency and effectiveness, although it also reflected the development of a more extensive centralized state apparatus for managing social policy during that era (McConville 1998a). The system of penal servitude initiated by Du Cane and legitimized by the Carnarvon Report imposed a brutal uniformity on the prison experience, including hard labour, minimal contact with those inside and outside, poor diet and unsatisfactory sleeping conditions. However, the retirement of Du Cane and the publication of the Gladstone Report in 1895 marked a turning tide. Gradually, conditions of separation and the use of hard labour dwindled and, indeed, from 1908, the use of imprisonment itself entered a period of sharp and sustained decline which saw a reduction from over 20,000 prisoners to less than 10,000. Ushered in as part of New Liberalism, heralded by the 1906 general election, the early decades of the twentieth century have been described as a prototype welfare state due to extensive reforms of social policy and the redistribution of wealth

(Hennessy 1992). This period included Winston Churchill's dramatic 18 months as Home Secretary (1910–11), during which he personally intervened in cases where he considered disproportionate sentences had been awarded; undermined and curtailed the use of preventative detention; introduced legislative changes that limited the imprisonment of children and young adults; and initiated legislation that gave offenders time to pay fines, so dramatically reducing imprisonment for default (Bennett 2003). This era marked a determined attempt to limit the use of imprisonment that was sustained until after the Second World War.

The interwar years saw further improvements in prison conditions, the elimination of the last vestiges of the separate and silent systems, and greater efforts to allow prisoners to retain community contact and prepare them for release. Emblematic of the reforms of this period was the establishment of the first open prison at New Hall in Wakefield, Yorkshire, in 1933. Arguments for the introduction of an open prison system – and the consensus regarding minimal use of imprisonment more generally – were robust enough to be sustained despite a major riot at Dartmoor in 1932 and the inevitable public debate and backlash that followed (Brown 2006).

Following the Second World War, the welfare state was created, marking a fundamental shift in the role of the state and leading to a redistribution of wealth. Despite the radical nature of these reforms, they received wide public support and were quickly assimilated into political consensus (Hennessy 1992). In criminal justice, 'welfarism' was led by experts, including social workers, psychologists and academics, and was characterized by an emphasis on the responsibility of the state to care for and reform prisoners as well as punish them, although arguably this velvet glove concealed an iron fist, in as much as the failure to reform could be used to legitimate the use of punishment in individual cases (Garland 2001). In other respects, too, this was not quite a golden age. First, it was a period of prolonged and extensive expansion in the prison population, with a doubling of numbers incarcerated between 1945 and 1960. Secondly, penal policy was widely debated, both from within, as staff grew concerned about increasing levels of violence (Thomas 1972), and externally, as public concern intensified about crime rates generally and juvenile delinquency in particular (Sandbrook 2005). In short, while the first half of the twentieth century is often characterized as the epoch of welfarism, it was also the era in which cracks began to show and the consensus started to weaken.

Throughout the 1960s those cracks continued to widen in the face of popular concern about crime and imprisonment, particularly following a series of high-profile escapes, including that of the spy, George Blake (Mountbatten 1966), the intense media interest in crimes such as the great train robbery and the Moors murders, and the widely debated abolition of capital punishment. Already listing heavily, the rehabilitative ideal was finally sunk by Martinson's famous research commonly paraphrased as concluding that 'nothing works' (Martinson 1974).

It has been argued that the collapse of the rehabilitative ideal, along with an acceptance of high crime rates and limited power effectively to reduce them, led to the emergence of a new form of criminal justice management, described as 'the culture of control' (Garland 2001). Characterized by the re-emergence of traditional forms of punishment, particularly the use of imprisonment, and an expanding infrastructure of control throughout society (often supported by commercial organizations), this movement also implies an increasingly emotional tone to public

and political debate about crime and punishment. The 'new punitiveness', as it has been coined, can be seen in the massive growth of the prison population in the UK and other Western democracies, and the adoption of punitive approaches to policing and sentencing, such as zero tolerance and three strikes (Pratt *et al.* 2005). In these conditions, the penal network has expanded dramatically, supported by a criminal justice infrastructure that includes more tightly controlled public spaces (Coleman 2004); more intensive community penalties, including electronic monitoring (Roberts 2004); and the criminalization of anti-social behaviour (Donoghue 2006). Public discourse has diversified, and punitiveness has become popularized in the media (Pratt 2007) and embedded in political discourse (Sparks 2003).

The brief history of prisons offered here illustrates how imprisonment is not only a long-established but also a central and expanding part of the criminal justice system. There has been a continuing tension between punitive and security values, on the one hand, and more compassionate and rehabilitative values on the other. This friction is a central feature of the prison and continues to play out to this day. In the section that follows we will look more closely at the 'compassion' end of the penal spectrum, and consider the extent to which prisons have been made more humane environments for the punishment of offenders. We will also discuss the new penal ideologies that came to the fore in the 1980s and 1990s – including privatization and managerialism – and examine whether these principles pose new threats to the humanizing of imprisonment.

THE 1980s AND 1990s: COMPETING TENSIONS

The purpose of prison as punishment is self-evident, as is the desire of many to ensure that prisoners receive harsh punishment. However, appeals for compassion and humanity have been voiced since the earliest days of prison reform and, in modern times, notable statesmen from Winston Churchill to Nelson Mandela have articulated the view that the nature of imprisonment is a reflection of the fairness and humanity of the society in which it is located (Gilbert 1991; Mandela 1994). In contemporary penal discourse and practice, the Woolf Report, published following extensive rioting in prisons in April 1990, had a far-reaching impact on the way that those managing and staffing prisons are expected to carry out their professional duties. Encapsulating the notion that prisons should maintain a balance between security, control and justice, Woolf emphasizes the balance required between keeping prisoners in prison, maintaining order and regulating their activities, on the one hand, and recognizing prisoners' rights and respecting their dignity on the other (Woolf and Tumin 1991). This dynamic goes to the heart of debates about the legitimacy of prison; in other words, the creation of conditions where a prison is viewed *by the imprisoned* as morally justified (Sparks *et al.* 1996). The delicate balance implied by prisons' legitimacy has been institutionalized by the Prison Service in England and Wales in its *Statement of Purpose*, which places equal value on security, care and rehabilitation:

> *Her Majesty's Prison service serves the public by keeping in custody those committed by the courts.*

Our duty is to look after them with humanity and help them to lead law abiding and useful lives in custody and after release (http://www.hmprisonservice.gov.uk/abouttheservice/statementofpurpose/).

In recent years, population increases and the emergence of punitive discourses have led to calls for an erosion of facilities available to prisoners that may be seen as luxuries (Jewkes 2002) – a belief enshrined in the principle of 'less eligibility' – and the introduction of conditions that make imprisonment more onerous (Whitman 2003; Pratt *et al.* 2005; Pratt 2007). Given that the UK has so enthusiastically embraced punitive measures in relation to sentencing and is rapidly moving closer to a state of mass imprisonment, it might further be anticipated that this country will adopt some of the other popular, punitive prison conditions emerging in America, including punishing physical routines, distinctive uniforms and petty rules. In the UK, however, the situation is arguably more complex than proponents of the new punitiveness sometimes suggest. For example, Matthews (2005) argues that quite different penal developments – sanctions that involve the infliction of pain, on the one hand, and the emergence of emotive (but non-punitive) punishments on the other – are frequently, and erroneously, regarded as two sides of the same coin. The reality of current penal policy is that it is characterized by plurality and diversity and, although punitiveness is inarguably a dominant contemporary discourse, there remains a tension between retributive and vengeful punishments, and more compassionate values. For example, the Woolf Report resulted in major improvements in prison conditions, including limiting cell-sharing and introducing in-cell sanitation (Woolf and Tumin 1991). It also briefly led to a reduction in the prison population, although this turned out to be a blip that was subsequently eradicated by the dramatic rise in numbers from 1992.

In prisons, there has also been professional resistance to unrelenting punitiveness, including a reinvigoration of professional advocacy of the humane treatment of prisoners. This was formalized by the current Director General of the Prison Service in 2002 when he defined the concept of 'decency', setting seven specific elements, but also asking the general question: 'whether or not staff would be happy with their relatives being held there' (cited in Coyle 2003). Subsequently, a tool was developed to assess the humane aspects of imprisonment, known as Measuring the Quality of Prison Life (MQPL) (Liebling assisted by Arnold 2004). This resistance to harsh, and frequently humiliating, penal practices in the face of popular media pressure and developing global professional practice remains a distinctive aspect of prison management in the UK.

A further 'compassionate' influence in UK prisons exists in the form of official bodies, including HM Inspectorate of Prisons and the European Committee for the Prevention of Torture, which act to protect human rights, and non-governmental organizations, such as the Howard League and Prison Reform Trust, both of which work for humane, effective and rational reform of the penal system. Yet some criminologists and penologists maintain that the prison reform movement is not a solution to the problems associated with imprisonment (which include social exclusion, overcrowding, drugs, mental illness and high rates of self-harm and suicide) but is part of the problem itself. Central to the position known as 'abolitionism' (see, for example, Mathiesen 1974; Ignatieff 1978; Fitzgerald and Sim 1979) is a critique of the

penal reform lobby and its 'detrimental and deadening impact on the debates around prisons' (Ryan and Sim 2007). Ryan and Sim (2007: 701) offer this assessment:

> *Abolitionists, while recognising that **some** reforms at **some** historical moments may have enhanced the position of the confined, would also maintain that the prison reform movement more broadly has, however unintentionally, helped to reproduce the dominant discourses that the prison is the **natural** response to crime and deviance.*

Ryan and Sim (2007) further note that, by the early 1980s, there was an 'enlarged, diverse and fractured policy network in England and Wales around imprisonment' with some lobby groups campaigning for improvements in prisons to deliver reform, while other groups vigorously campaigned against prisons, arguing instead for alternatives to custody.

The abolitionist movement and academic intervention in debates about prison reform were gathering momentum just as a new approach to politics was being ushered in. The New Right ideology of the 1980s promoted the private sector, market discipline and small government, and marked a decisive split with the post-war consensus and the primacy of the publicly funded welfare state. For public sector organizations, this ideology advocated 'new public management' (NPM) – a set of principles borrowed from the private sector that embrace competition, privatization and managerialism.

Since coming to power in 1997, New Labour's policy on prisons has only further entrenched the NPM ideals of its predecessors, and there is now an even greater emphasis on auditing and setting performance targets. Perhaps most significantly, in 2004, the National Offender Management Service (NOMS) was established, a commissioning body for criminal justice services, including prisons and probation, which also has a stake in sentencing guidelines. This organization proposes to expand commercial competition, or 'contestability', as it is termed (Carter 2003: 34), including the award of contracts to all prisons for a fixed period, after which there would be an open competition. Although the first attempt to achieve this by market testing three prisons on the Isle of Sheppey in Kent was aborted, the government's commitment to contestability is evidence of the blurring of public and private boundaries in the delivery of punishment (Bennett 2007).

Privatization is further manifested in several ways, including the contracting out of prison escort services, prison work programmes, electronic monitoring of offenders released from prison, the financing of prison construction and – most controversially of all – the management and operation of prisons (Mehigan and Rowe 2007). Objections to private prisons are wide ranging and include fears that the drive for profit can result in cuts in staffing costs (e.g. paying staff less money, employing fewer staff, employing less qualified staff and offering less job security), with commensurate reductions in officer–prisoner interaction, time out of cell for prisoners and security for both staff and prisoners. Above all, many people believe that it is morally and ethically unacceptable for private individuals to profit from the delivery of pain to others and, despite voicing objections along these lines when in opposition, since coming to power the Labour government has continued to encourage private investment and has announced that all new prison building for the foreseeable future will rely on private contractors.