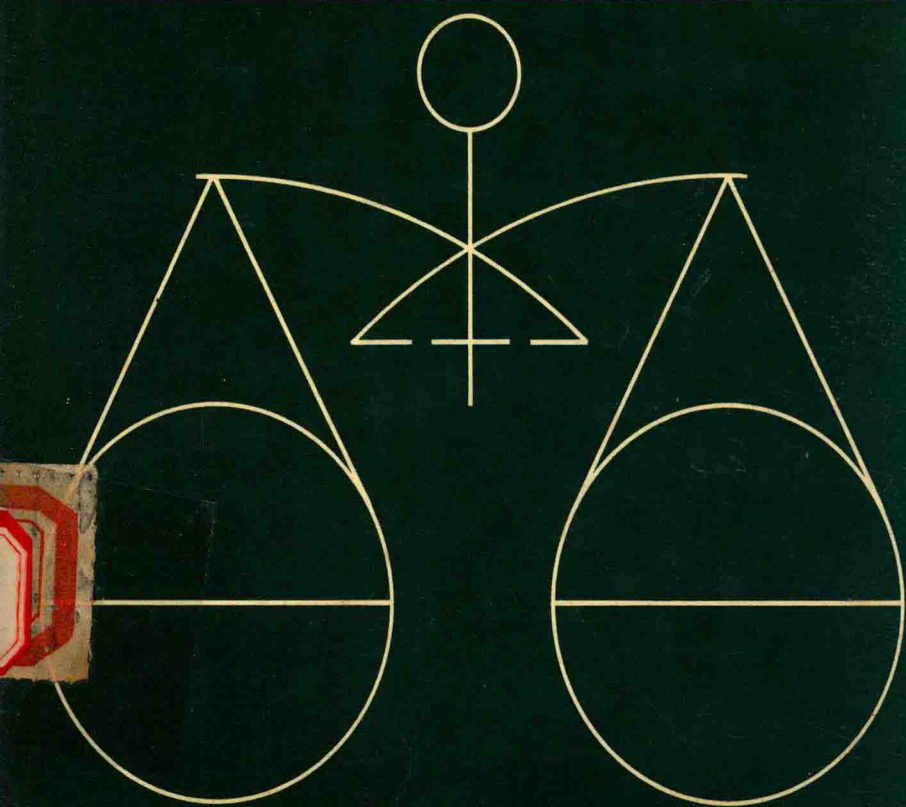


TOWARD A JUST CORRECTIONAL SYSTEM

Joseph E. Hickey
Peter L. Scharf



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TOWARD A JUST CORRECTIONAL SYSTEM

Experiments in Implementing Democracy in Prisons

by Joseph E. Hickey and Peter L. Scharf

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Preface

The prison should, were the world not full of paradox, be a very paradigm of the rule of law.

—Norval Morris, *Future of Imprisonment* (1974)

In a democratic society, the very idea of prison is a paradox—or rather a series of paradoxes. After all, how can such a society ultimately justify continuing to keep people, even prisoners, in a condition of political and economic servitude? How can this society instill, in people who have shown such fundamental disrespect for it, the sense of democratic community that makes it work? How can the society find a way to extend the democratic rights guaranteed other citizens to those convicted of serious felonies?

Prisoners are the most powerless of people. Legally, historically, and in the popular mind, they are noncitizens, nonpersons. From the society, they can demand nothing, not even minimal conditions of respect and safety. Why, then, *should* society extend them democratic rights?

There are three justifications—philosophical, historical, and psychological—for extending democratic ideals to the daily conduct of the prison.

Philosophically, it can be argued that all human beings deserve respect, no matter what they might have done to society or its

members. It can also be argued that the prison's punitiveness and denial of prisoners' political and economic rights are simply not just, as might be suggested by Rawls (1971), who states the conditions under which he feels a just society may restrict liberty or permit equality in its citizens.

Historically, there has also existed an obscure but important movement to reform prisons by extending democratic process to prisoners. As we shall describe, Alexander Maconochie's mark system, Thomas Mott Osborne's Mutual Welfare League, and Eliot Studt's C unit study are representative of this tradition.

Psychologically, developmental psychology (as embodied in the works of such thinkers as George Herbert Mead, John Dewey, Jean Piaget, and Lawrence Kohlberg) offers a conception of learning that may be appropriate here. Kohlberg, for example, suggests that people evolve through six stages of ethical or moral development and that this moral development is stimulated by, among other things, participation in democratic life. Clearly, traditional prisons fail to provide an environment likely to allow such development.

On the basis of these premises, in 1970 we initiated, in collaboration with Harvard University, a small-scale effort in which prisoners engaged in democratic dialogue about management of living-unit discipline, recreation, and the like, in the hope of demonstrating that inmates would respond positively to such an environment and would recognize that its rules and procedures were fairer than were those in the traditional prison. In addition, we were interested in exploring the use of the Kohlberg measure of moral judgment as a tool for measuring democratic learning in the prison. We were also interested in the impact of such a democratic intervention on the political and social culture of the prison.

After a year of preliminary work, we launched a project to create a democratic prison environment that would, we hoped, be perceived as fair by inmates and staff and that would actively stimulate the moral thinking of the people involved. We also hoped the program would aid inmates in leading successful lives following their release from the institution. The Just Community program was initiated in 1971 at the Niantic Correctional Institution for Women in East Lyme, Connecticut. There had been a near riot at the institution, and feelings between staff and inmates were generally hostile. In spite

of these antagonisms, inmates, staff, and administrators all expressed a willingness to explore the possibility of at least working together to create a new set of living unit rules. Inmates and staff members agreed to propose, institute, and enforce rules for a single "model cottage," as well as to work toward a positive sense of community. Implicit in this agreement was the recognition by prison administrators that inmates and line staff could legitimately discuss and attempt to restructure existing institutional arrangements.

Once operational, cottage meetings were held several times a week, and grievances, program suggestions, and parole and furlough petitions were brought up for open discussion by staff and inmates. Even such potentially explosive issues as contraband, escape, and assault were talked about in these meetings, and in only a few cases was a community decision directly overruled by the prison administration. Besides the meetings, residents also attended several weekly counseling sessions, led by trained cottage staff members, which had a more personal focus than did the larger meetings. In both encounters, inmates and staff were trained in methods of democratic management and discussion.

The Just Community program has lasted for eight years. In the following pages, we describe its background, methodology, procedures, its successes and failures, and, we hope, its ultimate justification. We realize that, in our supposedly pragmatic age, articulating a theory of prison reform that upholds an abstract notion of social justice runs the risk of sounding soft-headed and romantic. Others concerned with prisons may argue for "tough-minded" ways of "correcting the illusions" of rehabilitation and reform, citing promises of lowered recidivism. Our justification has little to do with lowered recidivism, although we hope it helps. Rather, we feel the reason to reform prisons stems from a commitment to social justice: That is, a just society should seek to guarantee social rights for *all* its people, and inmates simply should not be subjected to the degradations, cruelty, hopelessness, and despair that most experience in American prisons today. The right to democratic participation in prison is more than a psychological or educational technique; it is a fundamental political right. Further, we insist that, far from being soft-headed and romantic, the extension of rights to prisoners is the only way to ensure justice to all citizens, particularly the victims of crime.

Chapter One is an overview of three major historical efforts to create democratic prison programs. In reviewing the efforts of Maconochie, Osborne, and Studt, we emphasize both the promise as well as the constraints facing efforts at prison democracy. Historians interested in the evolution of criminal justice should find this chapter particularly rewarding since we have deliberately chosen three interveners who utilized self-government for different reasons at different times.

Chapter Two offers a conceptual rationale using psychological research as philosophical criteria for the developmental reeducation of prison inmates. This research played a vital role in developing several classroom interventions, and our efforts at moral education among school-aged children served to expand our own technology in several areas. We have included several sample meetings illustrating our basic educational strategy for psychologists and educators concerned with the issue of moral education.

Chapters Three and Four outline our intervention project as it evolved through two phases. Initially, our self-governing units were conceived as rehabilitative instruments. It soon became clear, however, that prison reform was the more pressing issue if the democratic ideal was to be viable. The units, therefore, became laboratories that not only served inmates but also explored the inner workings of the prison. The inevitable conflicts between a minidemocracy and the larger bureaucratic autocracy served to sharpen the conceptual as well as the practical inconsistencies implicit in both prison management and bureaucracies generally—and we hope that this and subsequent chapters will provide political scientists with a fresh perspective on the human consequences of bureaucratic decision making.

Chapter Five describes in detail the community meetings and small group meetings of the project. Besides their educational value, they can serve as a basis for comparative group studies, thereby furthering theory integration in the clinical area.

Chapter Six, containing preliminary research results, deals with inmate perceptions of prison moral atmosphere and moral stage change during their participation in our democratic living units. While the findings are generally positive, they inevitably raise more questions than they resolve. We hope our work will spur others to pursue some of those areas.

Finally, Chapters Seven and Eight discuss the constraints we identified in the interaction of democracy within prison. We have attempted to report our findings and recommendations in such a way as to attract the interest of sociologists and political scientists familiar with the traditional literature on total institutions. We hope our views and recommendations will renew interest in the central question: How should a society that espouses democratic ideals undertake to punish its criminals? We argue that it can and should be done through the democratic process itself and offer what we believe to be a workable framework by which individual rights and responsibilities can be exercised. We await the reaction of the growing number of social philosophers concerned with the issue of human rights and legal ethics to our extension of the Rawlsian paradigm to prisoners.

We believe a complete rethinking of America's penal process is needed as never before. Such issues as victimology and victim compensation have gradually taken on new significance with little in the way of practical results. Similarly, the matter of prisoners' rights has lain dormant, perhaps reflective of the nation's general social malaise. It is time, it seems to us, to get on with the job of pursuing justice and restructuring our legal system accordingly. Toward that end, we would hope that legislators and administrators alike will consider our proposals carefully. Although we do not claim that our work is complete, we are confident that careful pilot applications will prove them worthwhile.

Acknowledgments

The work described herein represents the labors of numerous individuals. In the first few months of activity, for example, Lawrence Kohlberg and Joseph Hickey collaborated on the design and implementation of the Cheshire group intervention. Later Douglas Freundlich and Peter Scharf, then doctoral candidates at Harvard, helped with the group meetings as well as the conceptual work of the democratic component. The early efforts at Niantic fell to Hickey and Scharf with the support of Kohlberg. At this point numerous people both within the Connecticut Department of Corrections and at Harvard University played vital roles. While training and advisory work

to the Niantic staff was provided by a Harvard team coordinated by the authors, day-to-day operations were the responsibility of Niantic personnel.

In early 1972 Hickey joined the staff of the Connecticut Department of Corrections central office, partly to ease the financial burden on an already overextended Harvard budget. This permitted several new Harvard people to examine the experimental unit from various disciplinary viewpoints and added immeasurably to the theoretical development of the program. During this time Scharf joined the faculty at the University of California, Irvine, and his support was necessarily restricted to periodic visits. In 1974 Hickey helped establish the New Haven group home largely with the financial backing of the New Haven Foundation. Here, day-to-day responsibility rested with the local YWCA personnel who provided the facility.

The following year a national training center was established at Niantic under Hickey's direction, and, with financing by the National Institute of Corrections, the male unit described herein was opened. In all these endeavors numerous individuals in both the corrections department and Harvard University played vital roles. By 1977, the training center had developed seven democratic interventions around the country in addition to the two units at Niantic. Several high school programs also borrowed heavily from this work.

The present book got underway in the spring of 1976. As the work progressed, however, it became clear that our theoretical interests had dramatically shifted. We were no longer simply interested, for example, in inmate reform. Rather, our inquiring had shifted to a reexamination of the moral validity of the prison itself. The various constraints, whether legal or administrative, and their implications for both staff and inmate, began to occupy both our theoretical and practical discussions. Perhaps this shift is most graphically illustrated by the change in the project's name from "Moral Treatment Unit" in 1971 to the "Just Community Project" from 1975 onward. In any event, it became obvious by 1978 that a new direction in the correctional enterprise was needed. We also became convinced that the Just Community approach could help define that direction. Hickey joined the faculty at the University of New Haven in 1978, primarily to rethink the entire Just Community approach in light of the new ideas that emerged during the training center phase.

It is impossible for us to individually name the many people who played a significant role in the formation of this book. Certain people, however, should be mentioned. We wish to thank Commissioner John R. Manson, who not only supported our efforts, but from time to time kept the wolves away; Deputy Commissioner Janet York, whose practical skill and honesty kept us constantly raising impossible questions; Robert Brooks, director of program development of the corrections department in Connecticut, who was always available for help and encouragement; and former Commissioner Ellis MacDougall, who was the first to encourage our work. We also wish to publicly thank Craig Dobson and Michael Garrity of the National Institute of Corrections, as well as Richard Graham of Washington, D.C., for their encouragement and understanding.

If Estelle Brown, David Konefal, James Reis, Charles Hecksher, Peter Baumgartel, and Gary Gordon—our unit supervisors and trainers—were the project's heart and mind, then the line officers, particularly Ellen Thomas and Alice Perkins—who helped start the program and are still carrying it on—were its soul. We also wish to recognize the hundreds of inmates throughout the country and particularly at Niantic who shared the past ten years with us.

Special recognition is given to Lawrence Kohlberg of Harvard University; without his help and encouragement, there would have been no Just Community Project. We value him as both a colleague and a friend.

This work represents a joint effort and equal participation by the authors; we assume full responsibility for the content and opinions expressed herein.

January 1980

JOSEPH E. HICKEY
Southington, Connecticut

PETER L. SCHARF
San Clemente, California

The Authors

JOSEPH E. HICKEY is associate professor of criminology, Division of Criminal Justice, at the University of New Haven. He was awarded the B.A. degree in philosophy from Saint Anselm's College (1963), the M.A. degree in special education from Central Connecticut State College (1968), and the Ed.D. degree in psychology and education from Boston University (1972).

Hickey is the author of several articles on moral development, criminal justice, and prisons. His professional affiliations include the American Correctional Association, the National Council on Crime and Delinquency, and the National Academy of Criminal Justice Educators. He is presently working on another book dealing with the ethics of imprisonment.

PETER L. SCHARF is assistant professor of social ecology, Program in Social Ecology, at the University of California, Irvine. He was awarded the B.A. degree in history from the University of Rochester (1967), the master's in education from Harvard University (1970), and the Ed.D. in developmental psychology from Harvard University (1973).

Scharf has published *Readings in Moral Development* (1978), *Growing Up Moral* (1979), and numerous articles on penology,

police science, and education. Currently he is serving as project director of a large national study on the police use of violent force.

To Our Parents

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