

# In defense of vengeance...

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sending the disadvantaged to a better world where they might be redeemed. This relief was short-lived. By the 1970s it was clear that the same faces were reappearing in court with startling regularity. Prisons, it seemed, in spite of all their new programmes, therapists, and increased community follow-up, were not rehabilitating offenders at all.

Money spent on treatment programmes and facilities including personnel and community programmes increased substantially during the late 1960s and early 1970s. Though the crime rate and the number of persons convicted of criminal offences went up steadily each year, the number of people actually in prison remained stable over 1969-74 at about 20,000. Provincial institutions, led by Ontario and British Columbia, experimented with an array of alternatives to straight incarceration, including treatment-oriented programmes for addicts and special facilities for young offenders.

The federal penitentiary system still had an absurdly small number of psychiatrists, psychologists, and social workers on call, just under 200 for an inmate population of about 7,800 but that was better than ratios in schools and institutions outside prison. The ratio was deplorable only if you subscribed to the viewpoint that those who committed a crime were ipso facto "sick" or "disturbed". Furthermore, in 1972 about 45 per cent of all penitentiary inmates were taking educational and vocational classes, while day parole and temporary absences which exceeded 35,000 in 1972 were used by inmates to attend community educational facilities.

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If there's anything wrong with the penitentiary system it's not the lack of educational opportunities or treatment facilities but the lack of security for inmates from one another. Rape and intimidation do not constitute part of a prison sentence, and the society that incarcerates has an obligation to protect the people it punishes and, at the very least be liable to them for any damages. Unfortunately, since it's unfashionable to suggest that some prisoners are truly wicked, there's little emphasis on ensuring that prisoners serve the sentences of the court and not of their fellow prisoners.

The emphasis is placed instead on the rehabilitation programmes of social scientists. But the uncomfortable truth is that nothing seems to make much difference: prisoners who get special treatment are as likely to be back in court on new charges as those who simply serve their time locked up.

A recent study of inmates at Guelph Correctional Centre in Ontario came up with some interesting figures. About sixty-four per cent of inmates who served their time in the regular facilities were later reconvicted.

## RECONVICTION RATE

Inmates who were chosen for an adult training centre with major emphasis on educational upgrading had a reconviction rate of 58 per cent. Those who got away from the institutional claustrophobia of Guelph to spend their time in a small minimum security forestry project responded with a seventy-one per cent reconviction rate. So much for the therapeutic value of the whole earth approach. Inmates who needed special care and were channelled out of Guelph to psychiatric facilities under the Department of Health maintained

a sixty-three per cent reconviction figure, while even those sent to specialized drug and alcohol treatment centres with high staff-to-patient ratios came back at the rate of forty-seven per cent.

Since only those inmates with a decent change of rehabilitation were chosen for the programmes in the first place after pre-screening by psychologists and social workers, it's difficult to escape the conclusion that locking up offenders was probably as effective as special programmes, and from a utilitarian point of view much cheaper.

*"Apologists for parole violators like to blame onerous parole rules for the failure of parole."*

Parole isn't much help either. In spite of the National Parole Service's successful noises to the contrary, a 1974 study of penitentiary paroles by the solicitor-general's office showed that 53.7 per cent of individuals

are virtually useless without such information as length of sentence left to be served when parole was granted. Neither can the difficulty of finding employment be cited as a major factor if Solicitor-General Warren Allmand's claim that eighty per cent of parolees are constructively employed and paying taxes is to be believed.

Judges, faced with the failure of prisons to reform more than about a third of their inmates, have become increasingly reluctant to send people to prison. This seems to be based on a theory that prisons cause crime. In 1969, just under forty per cent of Canadians convicted of an indictable offence were sentenced to a prison term. Correction officials estimate that 1974 figures may be as low as thirty per cent.

In a detailed study of the sentencing philosophy of magistrates, Professor John Hogarth of the University of Toronto Criminology Centre docu-

In December, 1972, under the wing of the solicitor-general's department, a federal-provincial committee of deputy ministers commissioned a study on ways to implement diversion. By 1974 the Law Reform Commission was on to it, and by 1975 it was official: imprisonment, said the Law Reform Commission, is inhumane and inappropriate. Diversion was in.

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Diversion keeps people out of prison by finding some other method of "reconciliation" between the "offender" and the "community." Diversion also has its own special vocabulary. Diversion can take place at various stages in the criminal justice system: before a charge is laid, before trial, or afterwards. Instead of going to prison, the offender comes to some arrangement that may involve doing a period of work for a community project and possibly reimbursing the community for his crime. Should he renege on this arrangement, his "diversion" would end and he would be sent back to court. Solicitor-General Allmand, a diversion enthusiast, explains: "The idea would be to keep a man in contact with his regular ties of family and job and reimburse the community."

## CLUTTERING PRISONS

Diversion supporters point to alcoholics, drug users, prostitutes, and vagrants as examples of people unnecessarily cluttering up prisons and rendering criminal justice ineffective.

But in fact most rational Canadians would like to see these categories of offences not simply penalized under diversion, but no longer criminal offences at all. Neither is there, or should there be, much enthusiasm for chucking young first offenders into prison. And in fact they rarely are.

Diversion has been a welcomed fact of life for years with police and community agencies working together to "clear" reported offences outside the courts. In many cases, by the time a youth is actually booked on a first offence he may have been through the community organizations several times. But diversion advocates use these sympathetic targets alcoholics, first offenders to cover up their true aim: the minimizing of all offences against property and indeed most violent offences as well.

The Law Reform Commission, set up by Ottawa under the Law Reform Commission Act of 1970 to recommend changes in Canadian Act of 1970 to recommend changes in Canadian law, has been the most visible advocate to dismantling or downgrading prisons. Some of its recommendations, issued in working papers, have been pretty radical. Among them: a maximum three year sentence for those violent criminals and murderers unlikely to repeat their crime; no imprisonment for most non-violent crime; no more life sentences.

## MAN RESPONSIBLE

But the single most influential advocate of ending imprisonment is the man federally in charge of bringing criminals to justice — Solicitor-General Warren Allmand. Alland claims that even now sixty per cent of those convicted of criminal offences are not sentenced to prison. They receive either fines, probation, suspended sentences, or complete and partial discharges.

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released on parole were back in prison within five years of their release, and the proportion of total recidivism occurring during the parole period was steadily increasing. In addition, the number of paroles forfeited outnumbered by three to one paroles revoked. Paroles can be revoked for minor offences or the breaking of parole regulations; they are automatically forfeited if a parolee is convicted of another indictable offense. Apologists for parole violators like to blame onerous parole rules for the failure of parole.

True, James Atack of the National Parole Service was reported in the Toronto Globe and Mail to be enthusiastically claiming that parole violations were down to 3.8 per cent in 1974, while a more sober William Outerbridge of the National Parole Board was claiming in the Toronto Star twenty per cent for the same year. But whatever the truth, the statistics

ments the ascendancy of "non-punitive" magistrates. Magistrates who cling to the idea that punishment and vengeance have something significant to do with sentencing are not only in the minority but seem socially isolated from their more progressive and humane colleagues. Meanwhile, social scientists faced with the failure of "treatment" to reform criminals blame not human nature but imprisonment.

The next step was predictable: bad prison conditions were cited not to get better prisons built but to justify emptying prisons. Since nothing inspires enthusiasm in the civil service like a new social science scheme in spite of the signal failure of the old ones, committees were set up to study legal ways to empty prisons. The concept of ending imprisonment has a name: diversion. Diversion-oriented groups would work out alternatives to incarceration.