



## **We Are All (Neo) Liberals Now: Reform and the Prison Crisis in England and Wales**

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## **We Are All (Neo) Liberals Now: Reform and the Prison Crisis in England and Wales**

Joe Sim<sup>1</sup>

### **Abstract**

*This paper critically analyses the prison crisis that occurred in England and Wales at the end of 2016. It considers the response to the crisis from politicians, prison reform groups, the media and the Prison Officers Association (POA), operating as an interlocked network of moral entrepreneurial power. This response, like its historical predecessors, has done little to alleviate the crisis. Rather it has reinforced the state's 'truth' that the prison provides the answer to its own problems, hence the need for an expanded system to manage and control those on the economic and political margins of a brutal neoliberal social order. The paper argues for a self-reflective, abolitionist response to the crisis designed to exploit the cracks and contradictions in penal power in order to challenge the common-sense mentalities around prisons, and criminal justice more generally, in order to create a penal 'good sense' through a range of theoretical, political, cultural and activist interventions.*

**Keywords:** abolitionism, crisis, reform, resistance

### **Introduction**

...history... can help to pierce through the rhetoric that ceaselessly presents the further consolidation of carceral power as a 'reform'. As much as anything else, it is this suffocating vision of the past that legitimizes the abuses of the present and seeks to adjust us to the cruelties of the future (Ignatieff, 1978: 220).

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In July 2015, Michael Gove, the new Justice Secretary, addressed the Prisoner Learning Alliance. Pointedly referencing Winston Churchill in the title of his speech, *The treasure in the heart of man - making prisons work*, he argued:

people go to prison because they have made bad choices.... But there is something curious about those who find themselves making bad choices, crossing that line, and ending up in prison. They are – overwhelmingly – drawn from the ranks of those who have grown up in circumstances of the greatest deprivation of all – moral deprivation – without the resources to reinforce virtue. And recognising that is critical to making prisons work (Gove, 2015).

Talking to the *Daily Telegraph* he indicated he believed in ‘the power of rehabilitation and redemption’ and ‘in the innate worth of every individual’ (Gove, 2016).

For many liberals, Gove represented a new age of penal enlightenment. This was symbolised by the standing ovation received by an ex-prisoner, Elroy Palmer, at the Conservative Party Conference the following October. Gove’s approach, endorsed by Prime Minister David Cameron, appeared to be diametrically opposed to the retributive policies pursued by his predecessor, Chris Grayling, and to Grayling’s own, hard-line, ideological predecessor, Michael Howard, and his populist, authoritarian slogan ‘prison works’.

When he spoke at the Howard League for Penal Reform’s AGM in November 2015, Frances Crook, the League’s Chief Executive, declared she was “‘blown away” by this never-before-heard language of a Justice Secretary’ while an editorial in the *Guardian* argued that ‘Mr Gove deserves credit for raising the standard of reform once more’ (Halsbury’s Law Review, 2015; The *Guardian*, 9<sup>th</sup> February 2016). In his speech at the AGM, Gove raised a number of issues which had effectively disappeared under previous administrations, including prison conditions, sentencing and legal aid. Together with his earlier call for the redemption of those inside, he appeared to inhabit a different penal universe to that of his predecessors.

### **Critiquing Govism**

However, the rush to sanctify Gove’s redemptive reformism was problematic. First, the narrow, liberal reading of penal policy as a binary divide between punishment and rehabilitation, or between two contrasting personalities, was simplistic and reductive. Gove and Grayling illustrated this point themselves in

a joint article in the *Sunday Telegraph* published in February 2016 in which they argued that, '[j]ustice must be done, and we have both, as successive Justice Secretaries, worked to make sure people receive the appropriate punishment for such actions. But there is no contradiction between being tough on crime and smart on rehabilitation' (Gove and Grayling, 2016).

Second, his speeches were as important for what was missing as for what they contained. They conspicuously ignored two key issues: the authoritarian, occupational culture of prison officers and its withering impact on prisoners and on those staff, pejoratively labelled by other staff as 'care bears', because they were empathetic towards the confined; and the lack of accountability of those who failed in their duty of care to protect prisoners. The systemic failure to implement recommendations from those bodies who were technically responsible for ensuring the accountability of the prison perfectly illustrated this lack of democratic control. Between April 2014 and March 2015, the Prison Inspectorate made 2,770 recommendations designed to reform and improve different aspects of policy across different institutions. Only 1088 (39 per cent) of these recommendations were fully achieved while 1682 (61 per cent) were partially achieved or not achieved at all (Sim, 2015a). Therefore, even on their own terms, ministers were failing to ensure that prison staff were democratically accountable and responsible for their actions, leaving the unjust and unfair discretionary framework within which they operated still untroubled and untouched.

Third, there was little difference between Gove's speeches and those delivered by previous Conservative and Labour Ministers in that they failed to discuss the lacerating social divisions, and the toxic inequalities, generated by the power of a neoliberal, capitalist system increasingly immune to, and unshackled from, the tempering restraints arising from the post-war settlement between capital and labour (Streeck, 2014). The Justice Secretary's rhetoric floated above and beyond discussing these divisions and inequalities and their impact on who gets punished and why, and, as importantly, who does not get punished and why not, as a result of the heavily-skewed process of criminalisation operating through the equally, heavily-skewed exercise of state power (Sim, 2009).

Fourth, like his predecessors, criminality was understood, without equivocation, as the prerogative of the visible poor and powerless, not the invisible rich and powerful. Their systemic and rampant criminality, inside and outside of state institutions, mostly perpetrated by well-educated individuals

from allegedly well-integrated, functional and respectable families, remained marginal to the everyday concerns of the state, ministers and liberal reformers.

And while ministers discussed punishing income tax evasion and corporate fraud, the focus of the state's forensic, punitive gaze was the immoral and amoral behaviour of the poor, and their allegedly debauched, dysfunctional families. They were systematically constructed as an endemic problem to be managed, contained and punished. The powerful had no need for such redemption. They were the benevolent lodestar towards which the poor should be guided and the norm to which they should aspire. Their sense of entitlement further reinforced their sense of impunity.

Fifth, Gove ignored the historical and contemporary role of the prison in inducing disorientation, trauma and terror in the lives of the confined making them feel bereft and humiliated to the point where *all* prisoners, not only the 'pathological few', were at risk of self-harm and self-inflicted death (Carlton et al, forthcoming). The production of systemic social harm was integral to penal and other institutions when they emerged at the end of the eighteenth century, and to their consolidation within the moral agendas, punitive mentalities cultural constructions and material practices pursued by the 'great arch' of British state formation, which defended the searing social divisions to which the new capitalist, social order gave birth (Corrigan and Sayer, 1985). As 'place[s] of punishment for misery' (Marx cited in Sim, 2014: 23), their punitive role was clear and unambiguous; manage, by any means necessary, the 'social junk' and 'social dynamite' (Sptitzer, cited in Box, 1983: 202-3) thrown up by capital's relentless, volcanic drive for profit. And despite some honourable exceptions - Grendon Underwood, the Barlinnie Special Unit and Parkhurst 'C' Wing - prisons have maintained that punitive role. They have never been places of reform or rehabilitation (Sim, 2009). That history of terror was missing in Gove's speeches.

Sixth, prisoners' experiences, their views, feelings, fears and yearnings were omitted. Their knowledge, subjugated and marginalised, would have provided an alternative truth to the state's dissembling definition of penal reality. There was no 'criminology from below' in Gove's world (Sim et al, 1987: 7). The prison's deep-rooted problems, and its 'crisis of legitimacy' (Fitzgerald and Sim, 1982: 23-4) could be managed away through redeeming prisoners and applying the logical rationalism of bureaucratic change.

Finally, Gove's rhetoric was a classic example of 'ideological mystification' (Box, 1983). The nature and extent of crime, its definition, meaning and impact, as well as the wider question of the murderous social harms committed by the powerful, were hidden behind the cloak of redemption for prisoners. This

mission, and the supplication of the confined to it, was not the progressive force he claimed it to be. It was not concerned with delivering individual liberation, social equality and social justice. Rather, it was about readjusting social control, and recalibrating state power, while conspicuously ignoring the corrosive social inequalities, and parasitic social order which prisons, and the wider criminal justice system, legitimated, sustained and reproduced while simultaneously and hypocritically defending the immoral and amoral behaviour of the powerful.

And while he distanced himself from some of the more outrageous policies pursued by Chris Grayling, his predecessor, including lifting the book ban imposed on prisoners and abolishing criminal court charges<sup>2</sup>, the goal of showing prisoners the redemptive hand of moral benevolence and pastoral guidance was designed to ensure that their psyches could be turned towards living a good life through becoming 'the ideal, neo-liberal agent' (Mirowski cited in Cederstrom and Spicer, 2015: 104). However, the moral rectitude which was central to his pious rhetoric meant he failed to consider one key question: how could the confined be expected to become morally upright, redeemed human beings when they were confronted by an intertwined network of ruthless and hypocritical economic, political, cultural, legal, welfare and penal institutions, which, despite the contradictions and contingencies within and between them, were, ultimately, often-unbearably weighted against their lives and interests?

Gove had no answer to this question, precisely because of the narrow social and political parameters within which his analysis of prisons, and its problems, were understood. His was a programme for 'reactionary reform' (Brown, cited in *The Guardian*, 2 August 2016). However, wider political events meant that his time as Justice Secretary was limited to fourteen months. It ended in July 2016 when the melancholic, populist and regressive debate about the UK's membership of the European Union, and the machinations involving him and others which led to the resignation of David Cameron as Prime Minister, changed the political landscape in the UK. When Theresa May became Prime Minister, he was sacked and replaced by Elizabeth Truss.

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<sup>2</sup> Grayling banned friends and relatives from sending books to prisoners and limited the number they could have in their cells. This was overturned by the High Court in December 2015. The criminal court charges, he introduced involved defendants in the Magistrates Courts, the lower courts, to pay £150 if they pleaded guilty and in the Crown Courts, the higher courts, to pay £1200 if they pleaded guilty. It was scrapped by Michael Gove (Elgot, 2017).

### **Framing the Crisis: In Liz We Truss[t]**

In November 2016, the new Justice Secretary published her first major policy document, *Prison Safety and Reform*, (PSR). Echoing Gove, she committed herself to 'mak[ing] prisons work'. Despite, covering just 61 pages, and 256 often-repetitive, meagre paragraphs, it was to be the blueprint for the 'biggest overhaul of our prisons in a generation' (Ministry of Justice, 2016: 3-4).

PSR was published at a moment when the prison system was engulfed in another crisis. The unofficial, industrial action taken by staff, the day before the White Paper was published, and the direct action taken by prisoners against the dehumanising regimes in Birmingham, Swaleside and Bedford prisons, added yet more incendiary layers to the sense of penal meltdown. The headline in *The Observer*, ten days after the document was published, '*Suicide, self-harm, stabbings, riots and lockdown - prisons reach crisis point*', perfectly encapsulated the apocalyptic sense of doom gripping the system (*The Observer*, 13<sup>th</sup> November 2016), an apocalypse which had been reinforced by official reports over the previous year which had illustrated the painful, soul-crunching reality of life inside: overcrowding, assaults, violence, bullying, self-harm, self-inflicted deaths, lack of staff training, little or no coordination between different agencies inside and outside, and the daily lack of purposeful activity for prisoners (*HM Chief Inspector of Prisons for England and Wales*, 2015; *The Secretary of State for Justice*, 2015).

Crucially, however, the popular, professional and political understanding of the crisis, and what should be done about it, failed to reflect this reality. Instead, the narrative through which the 'truth' about the crisis was framed, was generated by a network of politicians, media personnel, liberal reform groups and prison officers through their association, the POA. Fundamentally, this narrative was immensely problematic.

It had no sense of history. The crisis in November 2016 was not unique. Prisons had been crisis-ridden since they emerged at the end of the eighteenth century resulting in an endless cycle of crisis/reform/crisis which had been toxic for prisoners (Foucault, 1979). The crisis in the winter of 1978 provided a chilling parallel with the crisis at the end of 2016 (Fitzgerald and Sim, 1982). Beginning in 1983, a reform programme was introduced by Leon Brittan, the Conservative Home Secretary, including the biggest building programme in the twentieth century. Fourteen new prisons were to be built costing £252 million and more than 5000 prison officers were to be recruited (Ryan and Sim, 1983). Over thirty years later, this programme had made little or no difference to alleviating the

crisis. Rather, it had legitimated the further, and unnecessary, expansion of the system (Sim, 2009).

Furthermore, politicians, media commentators and reform groups uncritically and relentlessly tied the cause of the latest crisis to budget cuts, and to the wider politics of austerity. However, the cuts were not the cause of the crisis. Instead, they *intensified* an already bleak, penal situation. Deaths in custody provide an example of this point. Between 1990 and 2010 – the pre-cuts era – there were 1404 self-inflicted deaths in prison (Data derived from inquest.org.uk, cited in Sim, 2017). These deaths were a clear indictment of the regimes at the time. Therefore, even if prison expenditure was restored to its pre-cuts level, prisoners would still experience their confinement as systemically violent, degrading and authoritarian with little or no democratic accountability. They were ‘sites of state confinement’ (Carlton et al, forthcoming) which were stalked by self-harm and self-inflicted death. Focussing *solely* on the cuts allowed the debate about the crisis to be conducted on a narrow, reductive terrain where the old normal was valorised as something to be achieved, despite the systemic harm it engendered.

The crisis was also framed in the context of violence towards prison staff. The POA, acting in classical moral entrepreneurial terms, with the support of an ill-informed media as well as an acquiescent political class, was allowed to set the agenda for how violence inside was understood. The prison, so the dominant narrative went, was highly dangerous for staff as an occupational group, hence the need for more funding and a repressive clampdown on prisoners. In fact, as David Scott has pointed out:

[s]ince 1850 only eight members of staff (and not all of these prison officers) have been killed in prisons in England and Wales. The last prison officer to be murdered at work was Derek Lambert, who was killed at Portland borstal by a prisoner in 1965 (Scott, 2016).

The data on staff assaults were also problematic. Not only were prison officers encouraged to report every form of physical contact against them, but PSR only focussed on the period from 2012, leaving longer historical trends unexplored (Ibid). For example, in 1997, the Home Office pointed out that the definition of assault in prison ranged from ‘the most serious of assaults to incidents involving little physical contact’ while the National Audit Office noted:

absences caused by assaults on duty have been falling gradually over the last four years...One-fifth of all time lost for both prison officers and other staff was due to psychological conditions, such as stress,



anxiety and depression, which were the most important causes of absences of between six months and one year, at almost 40 per cent (cited in Sim, 2004: 118-119).

Comparisons with other occupational groups also raised issues about the unique dangers prison officers faced. In 2014-15, there were 4810 acts of physical assaults and violence on different occupational groups, including 423 assaults on prison officers below the grade of principal officer. This ranked below assaults on Nursing Auxiliaries and Assistants (828), Nurses (640), Care Workers and Home Carers (535) and Welfare and Housing Associate Professionals not classified elsewhere (423) (Sim, 2016).<sup>3</sup>

The social construction of state servants as violated and victimised resonates beyond the question of actual numbers, important though they are. There are a number of symbolic and political consequences arising from the perennial focus on the dangers they are alleged to face. In particular, this focus, mediated by the moral entrepreneurial network of power, referred to earlier, justifies the need for:

...an increased injection of law and order to revive [the social body] and inoculate it from the further spread of those diseased degenerates who threaten its healthy equilibrium. The fabric of the society has been so torn and desecrated by these deaths that it can only be repaired (and the death revenged) by weaving the thread of social control ever tighter through the sharp needle of authoritarianism (Sim, 2004: 126).

### **Reform and the Brave New World of PSR**

PSR outlined a number of reforms which, paradoxically, were built on criticising how reform had previously been implemented in the prison service:

Reform that focuses on specific parts of the system, however well-chosen, is doomed to fail because it does not bring the system together to deliver the changes it seeks. *We need to go back to the beginning* and make sure it is crystal clear what the prison system exists to deliver, both to everyone who works in and with it and to society beyond (Ministry of Justice, 2016: 14, emphasis added).

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<sup>3</sup> Thanks to Steve Tombs for pointing me towards the data from the Health and Safety Executive.

What did this 'year zero mentality' (Gilbert, cited in Grayson and Little, 2017: 70) mean by way of reforming the system?

Power was to be decentralised to prison governors who were to be given an enhanced role allowing them to determine the regimes in their individual establishments. Their success or failure, like schools, was to be ranked through performance measures and league tables, a neoliberal strategy which had been disastrous for the education system in England. In January 2016, the country was ranked lowest for literacy, and second lowest for numeracy, in the developed world. There were three times as many individuals classified with low skills in the 16-19 age group than in the best-performing countries (*The Organization for Economic Co-operation and Development* cited in Sim, 2016). Why, therefore, should a system which had failed to generate positive and empowering educational results suddenly achieve success in prisons which contained individuals who had similar, if not more, complex social, psychological, personal and emotional issues than those in schools? Furthermore, what did this avowedly populist policy mean for governors? In practice, they were being asked to take on a workload which was a recipe for stress, anxiety and ill-health, as many of those in the teaching profession had already experienced when exposed to similar, decentralised regimes.

The policy meant that Ministers could not lose. The vote-winning mantle of success could be claimed when penal policy appeared to work, while crisis and failure could be deflected onto these same managers. John Marriott's case provided devastating evidence about what can happen when the lines between command and responsibility become blurred. In 1995, he was suspended from his post as governor of Parkhurst prison after three top-security prisoners escaped. Derek Lewis, the Director-General of the Prison Service was sacked by Michael Howard, the-then Home Secretary. Mr Marriott died three years later. He was 51. In his obituary, the *Independent* explained that the escapes:

led to a welter of claim and counter-claim by each of these [Lewis and Howard] about the responsibility for decision-making in the Prison Service; in this case, who had responsibility for deciding whether Marriott should be moved out of Parkhurst. And so a man hitherto almost universally regarded as conscientious, caring, thoughtful and committed, found himself to be in the eye of a storm, or at least a House of Commons debate (*The Independent*, 18<sup>th</sup> June 1998).

Additionally, the role of prison officers was to be enhanced and, despite staff training being increased to 10 weeks, it remained amongst the lowest in Western Europe. However, like previous government documents and state

inquiries, PSR failed to consider the authoritarian, occupational culture that prevailed in many prisons, and its nefarious impact on reforms designed to positively develop the rehabilitative role of staff. As noted above, the treatment of those staff who attempted to do a decent job in physically and psychologically lacerating circumstances generated by the landing culture was a powerful testimony to the limitations and weaknesses in the reform agenda. When problems arose, reformers reduced the deeply problematic exercise of power on the landings, with its formal and informal, conscious and unconscious, emphasis on delivering pain and punishment to the individual deviance of rogue officers (Sim, 2009).

PSR argued that cuts in staffing levels had been detrimental to regimes, a point uncritically supported by the POA. An additional 2500 officers were to be recruited while more staff were to be moved into front-line duties. This was a distraction based as it was on the false premise that more staff would result in a stable, less crisis-prone system. As David Scott has noted, the ratio of prison officers to prisoners is both complex and historically variable. Additionally:

...the currently uncontested POA data presents an account of current prison realities that inevitably directs us towards a specific set of solutions: more prison officers and more prisons. Such an uncritical adoption in the media of the POA informed explanatory framework not only closes down opportunities for a more informed debate in a time when we have record numbers of prisoners, but it also rules out alternative policy solutions, such as those that would reduce the number of prisoners and close our degrading and inhuman prisons rather than build new ones (Scott, 2016).

The document recommended that more ex-military personnel should be recruited to work as prison officers. This implied that life in the military somehow, magically, equipped them to respond to other human beings with compassion, empathy and care. Arguably, the ethos of the military encouraged the development of diametrically opposite qualities in its recruits. The fact that around 3.5 per cent of the prison population, or nearly 3000 prisoners from military backgrounds, were in prison, suggested that this career choice was not something that encouraged stable and well-rounded personalities (Sim, 2016).

Ultimately, like Gove, Truss was simply engaging in the 'art of enforced amnesia' (Boym, cited in Roberts, 2014: 103). Both failed to learn from history in terms of the negative impact that the militarisation of prison regimes had on prisoners. In the nineteenth century, the regimes were based on highly militarised, bleak, brutal practices which did little, if anything, to reform

prisoners. The opposite was the case. In 1865, in Chatham, 11 prisoners died. In 1866, 14 died, a record number. The system was so severe that prisoners were reduced to eating candles to stave off hunger (Sim, 1990).

PSR recognised that there were problems around the accountability of prisons, a point which had been consistently articulated by prisoners, abolitionists and activist groups for decades. It noted that the arrangements 'for how the prison system is overseen have grown in a piecemeal fashion' and that the 'way in which lines of accountability flow are blurred and unclear. The division of responsibilities between those who set the framework and the prisons themselves which deliver the service is confused, and accountability for the different aspects of the system poorly defined' (Ministry of Justice, 2016: 13). This had serious implications as it had 'to an extent blunted the teeth of commissioners and inspectors, and left too many distinct functions located in the Ministry of Justice and its agencies'. Thus, it made the role of those organisations nominally responsible for the accountability of the system such as the Prison Inspectorate, the Prisons and Probation Ombudsman and Independent Monitoring Boards 'more difficult as the lack of clarity over responsibility blunts their ability to bring about change' (Ibid: 13-14). The document argued that the Prison Inspectorate should play a 'stronger role in holding prisons to account so that the recommendations it makes have a real impact on improving the system, while retaining its independence' (Ibid: 14). It also suggested that the Prisons and Probation Ombudsman could be put on a statutory basis 'which could bolster the status of the role and we will explore ways of achieving this' (Ibid: 19).

The document noted that the *Incentives and Earned Privileges Scheme* had been used as a 'punitive measure' (Ibid: 38), again a point consistently articulated by prisoners, abolitionists and activist groups since the scheme was introduced. Furthermore, it was proposed that probation could become the responsibility of prison governors and that staff could work both as prison officers and probation officers. How these disciplinary and welfare roles were to be reconciled was not addressed. More broadly, there was no consideration of the role that sentencing policy had played in fuelling the crisis. Nor was the issue of the prison budget, and the direction of expenditure, addressed in any meaningful way.

Women prisoners were reduced to a walk-on part. While PSR recognised that self-harm was an issue in women's prisons, 20 lines were devoted to discussing the government's plans for creating 'five small community prisons' which would 'focus on preparing women for release, in a similar way to resettlement prisons'

(Ibid: 61). Again, there was no critical, scrutiny of the meaning and practices of, and problems with, resettlement policies for women in a society deeply divided along the fault lines of gender. As Pat Carlen has noted:

...re-integration, re-settlement or re-entry are often used instead of re-habilitation. Yet all of these terms, with their English prefix 're', imply that the law breakers or ex-prisoners, who are to be 're-habilitated'/'re-integrated'/'re-settled' or 're-stored', previously occupied a social state or status to which it is desirable they should be returned. Not so. The majority of prisoners worldwide have, prior to their imprisonment, usually been so economically and/or socially disadvantaged that they have nothing to which they can be advantageously rehabilitated (Carlen, 2012: 3).

Finally, and inevitably, 10,000 new, adult prison places were to be built, as part of the ongoing prison building programme. By February 2017, Wrexham prison, with a capacity of 2106, and having cost £212 million, had already opened (Prison Reform Trust, 2017: 3). This was in a country which managed to build just 6500 houses for social rent in the year up to March 2016 (Sim, 2016).

### **The (Self) Muted Voice of the Labour Party**

In December 2016, speaking after the disturbance at Swaleside, the Labour Party's Shami Chakrabarti, the newly-installed, and newly-ennobled, Shadow Attorney General, reinforced the dominant narrative around the crisis, even arguing that there was an equivalence between prison staff and those whom they confined: 'we now have overcrowded, understaffed prisons. *They are very unsafe places for prison officers and prisoners alike*' (*The Guardian*, 24 December 2016, emphasis added). And while she criticised private sector involvement in the aftermath of the disturbance in Birmingham prison, which was run by G4S, her remarks reinforced the accepted, complacent view that removing the private sector would somehow alleviate the crisis. Once again, this ignored the two centuries of penal history and the key point from this history that prisons had been consistently in crisis *irrespective of private sector involvement* (Foucault, 1979; Sim, 2009; Fitzgerald and Sim, 1982). Her remarks opened another space for the POA to advance their regressive thesis on staff safety. Their General Secretary commented that, 'our members are brave and resilient, and it is about time they were rewarded by government...to ensure that prisons are safe and our members are safe' (*The Guardian*, 24 December 2016).

As ever, a Labour Party politician, had missed the opportunity to challenge the dominant narrative articulated by the POA and offer a different position on the crisis. Chakrabarti was caught in the ideological pliers of a reformist discourse which failed to contest the very nature and existence of the institution, its desperate impact on the lives of those inside, including inducing physical and ‘social death’ as well as the collateral damage experienced by families, and communities on the outside (Carlton et al, forthcoming; Price, 2015).

Both the major political parties remained ideologically welded to a system where the punishment of the poor, powerless and dispossessed was normal and taken-for-granted. In April 2017, Marie Baker, who had been the subject of an injunction to prevent her begging, and who could not read or write, was imprisoned for 26 weeks after asking for 50 pence on the street. She had no legal representation or public funding and had to represent herself. Although he recognised that she was ‘a fragile and vulnerable individual’ and that ‘her appearance without a lawyer “came close” to breaching her human rights’, the judge in the case told the court:

The breaches themselves, if not trivial, are at a very low end of the scale and something which the court would be very loathe to send (the woman) to prison for, if anything else could possibly work but this court cannot simply give repeat injunctions and allow people to go continuing begging, continuing to persist in a nuisance to the population, without some real teeth being given to the injunction (cited in *Inside Time*, June 2017: 11).

Her case symbolised the broader issue of women in prison. Ten years after the publication of the *Corston Report*, women were still being sentenced in large numbers for petty offences. In the year to December 2016, nearly 8500 were confined either as sentenced or remand prisoners. Eighty four percent had committed non-violent offences. Since 1993, the percentage of women serving short sentences had grown precipitously, from 33% to 70% (*Prison Reform Trust*, 2017: 11).

Like Gove, Truss did not last long as Justice Secretary. In June 2017, after thirteen months in office, and described as ‘someone who would be out of her depth in a paddling pool’ (Crace, 2017: 13), she was moved in the reshuffle that followed the General Election. She was replaced by David Lidington, the fifth Justice Secretary since 2010.

## Meet the New Boss, Same as the Old Boss?<sup>4</sup>

In 2009, Lidington had come to public attention when he claimed nearly £1,300 in expenses. He submitted:

regular claims for cleaning, even sending his bath mat and towel to be professionally washed. On one day in July 2006, [he]...collected four different receipts from the same dry cleaner near Westminster. In May 2006, he charged two Boots receipts, totalling £51.09, which included Wellman Vitabiotics, L'Oreal moisturiser, Sensodyne toothpaste and body spray. The claim was approved (Gammell, 2009).

Furthermore, between 2004/5 and 2007/8, he claimed a total of £72, 666 for his second home (Data derived from Ibid).

Although he had broken no laws, like other politicians before him, the *nature* of these claims, and their *moral* basis, deserve to be scrutinised and highlighted as they were being made in the context of a society where record numbers of the poor were using foodbanks. They had little or no money to buy food, never mind L'Oreal moisturiser.

Lidington quickly listed his priorities: more prison officers, more investment, less drugs, less drug-carrying drones and less mobile phones:

We are continuing to transform our prison estate to close old and dilapidated prisons and create up to 10,000 new places through a £1.3 billion investment. We know where the problems lie in our prisons, and we know what is needed to fix them. *We are continuing with, and building on, these reforms to ensure prisons are safe and secure and are able to transform the lives of those sent to custody by our courts* (cited in *Inside Time*, July 2017: 19, emphasis added).

In July 2017, the dominant narrative was, once again, mobilised, reinforcing the common sense understanding of the crisis and what should be done about it. Without being contradicted by Lidington, a TV interviewer uncritically asserted, that because of budget cuts, assaults on staff and prisoners had increased by 140% and 81% respectively. Lidington maintained that the problems inside were caused by legal highs and the changing nature of the prison population which had 'shifted in character'. It was no longer 'your teenage burglar' inside, more 'gangsters' and sexual and violent offenders were serving time (*The Andrew Marr Show*, BBC1 9<sup>th</sup> July 2017). In a political sleight of hand, Lidington used the

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<sup>4</sup> This is taken from the song 'Won't Get Fooled Again' by The Who.

average daily prison population to make his case. However, if he had discussed the number of prisoners being recycled through the system *annually* then the highly dangerous population he described would have morphed into the population that prisons had always contained – individuals serving short sentences, many existing at the needle sharp end of economic and political marginalisation and state criminalisation. The misery of the prison compounded the misery of that alienating process of marginalisation and criminalisation.

### **Thinking Differently**

Why could these contemporary politicians not transcend their cognitive and political fixation with the prison in the light of the damning evidence of the failure of the reform agenda over the last two centuries? There are a number of issues raised by this question.

First, the salvation offered by Gove, in particular, could be seen as a form of 'regressive modernisation', an ideological strategy which attempted to "educate" and discipline the society into a particularly regressive version of modernity by, paradoxically, dragging it backwards through an equally regressive version of the past' (Hall, 1988: 2). Thus, while he appeared to be a reforming moderniser, Gove had a highly traditional, regressive, moral perspective on the role of the prison and the nature of crime. David Cameron, his boss, had an equally regressive view of the present, and vision for the future, rooted in an ideological vision of a neo-Georgian past where the country was '...governed by a small coterie of wealthy families that collude and compete for power and influence...The end result will be a society in which opportunity is concentrated in a single, self-perpetuating oligarchy' (Gray cited in Sim, 2015a).

Second, there is the concept of crisis itself. Politicians, and those responsible for managing and implementing penal policies, had a narrow, ahistorical understanding of the concept. Wolfgang Streeck's analysis of how crises can envelop whole social systems can be utilised to explain what was happening in the prisons at the end of 2016. In crisis situations, there is a:

...continuous accumulation of small and not-so-small dysfunctions none necessarily deadly as such, but most beyond repair, all the more so as they become too many for individual address...the parts of the whole will fit together less and less; frictions of all kinds will multiply; unanticipated consequences will spread, along even more lines of causation. Uncertainty will proliferate; crises of every sort...will follow each other in quick succession while predictability and governability



will decline further (as they have for decades now). Eventually, the myriad fixes devised for short-term crisis management will collapse under the weight of the daily disasters produced by a social order in profound anomic disarray (Streeck, 2014: 47).

Streeck's comments can be applied to the 'profound anomic disarray', and the lack of legitimacy, surrounding the prison system, internally and externally, at the end of 2016. The social order of the institution, and the profound challenges it faced, meant that it was increasingly unmanageable and contested. And yet, politicians like Gove, Truss and Chakrabarti as well as media commentators and liberal reform groups stood on the same ideological terrain in that they avoided radical critique of the roots of the crisis and of the penal system and criminal justice system, more generally. So the repetitive mantras they offered as a solution to the crisis, which had been tried, tested and failed for centuries amounted to:

[a]n avoidance of critique. In place of critical forms of knowledge, which necessarily represent the deficiencies of the present, forms of empty affirmation are offered to be repeated ritualistically. These lack any epistemological or semiotic aspiration to represent reality, but are instead ways of reinforcing it (Davies, 2016: 132).

Following Davies's argument, when politicians robotically repeat that they will build their way out of the crisis by opening new prisons, employing more staff or developing more community alternatives, they are engaging in what Luc Boltanski has termed 'systems of confirmation', performative utterances which seek to preserve the status quo and to occupy the discursive space that might otherwise be filled by empirical or critical questions about the nature of reality (Ibid: 133).

The 'performative utterances' of these groups played a central role in the social construction of a common-sense understanding of the prison crisis and, crucially, what should be done about it. Ideas, understandings and social action are frozen within an iceberg of pragmatic expediency and are not remotely designed to challenge micro and macro structures of power, within and without penal institutions. Ultimately, they reinforce these structures of power thereby ensuring that nothing fundamentally changes while the ongoing subjugation of the confined, and the misery generated by the often-brutal exercise of penal power, continues unabated.

## Against Reformism, For Abolitionist Praxis<sup>5</sup>

In England and Wales, contrary to the misplaced and insidious stereotyping of abolitionism, abolitionist thought has impacted significantly on liberal reform groups, who have been dragged, sometimes kicking and screaming, onto a more radical, ideological and policy terrain. Debates about women in prison, deaths in custody, youth justice and prison health care are testimony to the impact of abolitionist thought on liberal thinking in these areas (Sim, 2009). The cloak of invisibility which had enveloped prisons, while not totally shredded, has been significantly torn beyond repair due to the work of abolitionists and activist groups heavily influenced by abolitionist work. And while reformist discourses still dominate the state's response to the prison crisis, and penal policy more generally, they have not achieved complete ideological domination. A contradictory, contingent space exists for critical, alternative interventions. For example, the interventions made by the *Centre for Crime and Justice Studies* have challenged the discursive construction of the category of 'crime', the need to think about broader issues of social harm and social justice and the necessity for a radical transformation in the criminal justice system including a moratorium on prison building, closing existing prisons and fundamentally changing sentencing policies.

The work of the charity INQUEST, its ideological and policy interventions around deaths in custody, the legal and emotional support offered to the families of the deceased and the policy changes the charity has instigated, built on the utopian slogan of '*Truth, Justice and Accountability*', also provides a model for an 'abolitionist praxis' to become hegemonic (Brown and Schept, 2016: 12). INQUEST exemplifies the spirit of 'visionary dissent' (Whitfield, cited in Harding, 2017)<sup>6</sup> which has provided the theoretical, political and ideological underpinnings of the abolitionist movement, and fuelled the grassroots, interventionist activism, which has been the beating heart of this movement over the last four decades (Scott, 2017). At the same time, abolitionist thinking requires ongoing theoretical, political and activist renewal in order to confront the challenges presented by the unforgiving exercise of penal and state power in the twenty first century and the damage that this does to those who experience it on a daily basis (Ryan and Sim 2016). This ongoing, multi-faceted

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<sup>5</sup> This is taken from Brown and Schept (2016: 12).

<sup>6</sup> This was a phrase used by Peter Whitfield to describe the late Heathcote Williams cited in his obituary written by Luke Harding in *The Guardian* 2 July 2017. <https://www.theguardian.com/books/2017/jul/02/heathcote-williams-radical-poet-playwright-actor-dies-aged-75> (consulted 6 July 2017).

renewal – theoretical, political, strategic, interventionist and self-reflective – involves recognising that the struggle around the prison is hegemonic and that hegemony itself ‘is a process, not a state of being... history is never closed but maintains an open horizon towards the future’ (Hall, 2017: 354). As importantly, in the realms of politics and culture, ‘[t]here are always cracks and contradictions - and therefore opportunities’ (Hall et al, 2013: 20).

In Hall’s terms, this means that there is *no* penal hegemony. The state has not won the argument about the role and goals of the modern prison. In fact, despite the hubris and bluster from the different political parties discussed in this article, and the endless recycling of tired, reformist clichés, by the summer of 2017 nothing had changed. The annual report of the Prison and Probation Ombudsman pointed out that the previous year had seen:

...an 11% rise in prison suicides, more deaths from natural causes and eligible complaints up 9%....these statistics, combined with high levels of violence and incidents of significant disorder, *indicate a prison system still very much in crisis* (Prisons and Probation Ombudsman, 2017: 1, emphasis added).

Critically conceptualising hegemony as a process also means maintaining a theoretical and political space to think in conjunctural, analytical terms. This would allow for a ‘deeper perspective’ to be developed which ‘challenges a narrower focus on day-to-day dramas...’. Also, it ‘places special emphasis on crisis as the driving force of history’ which means ‘historicis[ing] the present’ while responding ‘to moments of crisis with *innovative programmes and alliances* and an understanding of the potential of current social and political forces. This is, of course, an extremely difficult task’ (Grayson and Little, 2017: 62-5, emphasis added).

While Grayson and Little’s discussion concerns the profound economic aneurism rupturing neoliberal capitalism, their analysis has relevance for abolitionist thinking with respect to how the old and new left think about crime and punishment and the need for them to break free from the traditional myths and shibboleths within which they remain trapped. They could begin with understanding the role of the prison in the policing of the searing social divisions scarring the society. They could then consider what alliances they might make in order to establish links with prisoners to prevent their marginalisation. And finally, they could consider what programmes could be developed which would challenge the ongoing social construction of prisoners as dangerous animals who need to be incapacitated and left to fester in subhuman conditions. In

England and Wales, alliances between the left on the outside and those on the inside remain tenuous. The left's commitment to radical penal change is still totally underdeveloped, trapped as it is within a common-sense mythology around what prisons are, and what they do.

Michelle Brown and Judah Schept have also argued that abolitionists should think about refining their theoretical concepts in order to enhance the development of what they term 'critical carceral studies', concepts which are designed to 'intervene in dominant criminological narratives about the carceral state in order to broaden and sharpen abolitionist analytical vantages' (Brown and Schept, 2016: 16). Following Marianne Kaba, they pose further questions for abolitionist thinking. For them, developing strategies of safety is a key issue:

Safety...is not simply about those who have harmed or been harmed, but a movement beyond disciplinary neoliberal frames of responsabilisation and internalisation to community and state accountability, a kind of insurrectionary safety.....operating within an abolitionist habitus.....How can we organise our communities to be safe? What should we do when various kinds of harm, with different kinds of needs, occur? What are the collective ways and forums in which we can pursue this work? (Ibid: 10 and 15).

To this could be added asking critical questions about the punitive alliances which have been formed, and which are now in place, between different state institutions if a fuller understanding of punishment *in all of its forms* in the twenty first century is to be developed. This would involve critically analysing the coruscating power exercised over benefit claimants – the discarded detritus of neoliberalism – the link between welfare and criminal justice institutions, the sheer numbers ignominiously processed and recycled through them annually, the emergence of an 'enduring austerity state' (Jessop, 2016: 233) and the austerity state's relationship with the 'iron-clad authoritarianism' pursued by successive governments in the UK which has intensified over the last four decades (Sim, 2015b: 31).

In 2013, the number of 'sanctions' in Britain's 'secret penal system' imposed on welfare claimants – 1,122,526 – exceeded the fines imposed by Magistrates' and Sheriff Courts – 849,000 (Webster, 2015). For abolitionists, what do these data mean politically and strategically for analysing the relationship between poverty, safety, dispossession and punishment as the unrelenting fist of neoliberalism reaches right into the heart of the welfare state? What strategies can be developed to intervene and challenge the deadly implications of this development for the poor in terms of the physical and mental health issues they

generate, the economic and psychic marginalisation they reinforce and the self-inflicted deaths they spawn? Finally, how can state officials be brought to account for their crimes in these, and other areas, and what should be an abolitionist response to these crimes? Addressing these, and the other questions posed above, is essential for ensuring the continuing relevance of abolitionist theory, policy and practice, and the ongoing regeneration of its moral basis which is clearly diametrically opposed to the immoral and amoral neoliberal social structures within which abolitionists currently organise, intervene and contest.

## Conclusion

For the individuals cited in this paper - Michael Gove, Elizabeth Truss, Shami Chakrabarti and David Lidington - nothing lies beyond the prison. It is an immovable and unchallengeable rock in the criminal justice strategy pursued by both major parties. The institution's abject failure in its stated goals over 200 years is ignored in favour of myopic, expedient and complacent reforms which will neither solve the prison crisis nor shift penal policy away from the aching desolation and psychological and physical destruction experienced by prisoners.

The transformative ideals of abolitionist thought and practices – ideals which are light years away from the corrosive, life-sapping, law and order discourses articulated by the majority of contemporary politicians and media commentators and the pragmatic expediency of many in the liberal reform lobby – give the healing hand of 'abolitionist praxis' (Brown and Schept, 2016: 12) its political resonance and relevance, and, following Stuart Hall and Antonio Gramsci, its moral authority to intervene, through exploiting the 'cracks and contradictions' to create penal 'good sense'. The naming of the systemic fear, pain and punishment experienced by the small minority of conventional lawbreakers who languish in prisons in England and Wales should be central to the creation of this 'good sense'. Ultimately, liberal penal reform is the handmaiden to the decimating punishment and pain intrinsic to everyday penal practices, not the solution to it. After two hundred years of abject failure, it is *their* ideological and policy interventions that need to be critically scrutinised and rejected rather than the idealism and utopianism of abolitionism and its supporters.

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