

One of the most difficult and one of the most ignored of our social problems is the problem of prisons - a problem which might be ameliorated through drastic prison reform, but which can be solved only through the abolition of prisons. The elimination of imprisonment may at first seem like a radical step, but alternatives to imprisonment are already widespread - fines and probation are often used, and traffic law violators are sometimes sentenced to attend classes in driver education. The advocacy of prison abolition implies simply that other courses of action, including, sometimes, doing nothing at all, are preferable to imprisonment. This conclusion is far from obvious - it may follow from a distaste for the use of violence - prisons resting fundamentally on the use of violence or the threat of its use - or from a careful consideration of prisons, their effects on inmates, and the relationship they have to the society at large. Here we take this latter viewpoint.

The problem of prisons differs from other important social problems in at least one respect; most of the situations which present themselves as problematic, whether race relations, militarism, or air pollution, are widely recognized as problems; and receive much discussion and public attention. This is not true of prisons, and it is this that makes prisons one of the most difficult of public problems. With rare exceptions, only present or former prison inmates and their friends and family perceive prisons, per se, as presenting problems, and they are rarely in a position to do much about them. Neither periodic scandals and horror stories nor occasional prison riots have succeeded in awakening lasting public interest, though almost everyone recognizes that imprisonment is to be avoided if at all possible.

This lack of interest is to be explained only in part by the fact that most people never expect to be imprisoned. Yet the number of those involved is not so small either: at any one time, roughly 400,000 persons are imprisoned in federal, state or local penal institutions, while another 800,000 are on probation or parole, many of them former prisoners. During the course of a year, institutions receive 2.5 million persons as inmates, probationers or parolees; an additional 5.8 million family members are affected.² Besides, expectation of possible future incarceration cannot be the only relevant consideration, since conditions in public zoos are often superior to those in many jails, even though no one expects to be locked up in a zoo. And political groups whose members have often been imprisoned have shown comparatively little interest in prisons. Rarely do they go beyond the familiar complaints about lack of rehabilitation programs to a more fundamental analysis.

1. To understand this absence of concern about prisons it is necessary to examine the several roles that prisons play in our society, and to explore popular beliefs about the functions prisons serve. Most people believe that prisons exist to protect the public from those who commit anti-social acts, such as murder, rape, assault and theft. Another commonly accepted rationale for prisons is that they deter potential criminals. Historically, the common use of a fixed prison sentence is in fact roughly contemporary with the acceptance of the idea that crime could be deterred by imprisonment for a period sufficiently long that the rewards of crime would be outweighed by the inconvenience of long imprisonment. Prior to this time, corporal punishment and deportation were commonly used as punishment, and imprisonment was reserved primarily for those awaiting trial. The notion that imprisonment deters potential criminals rests on the belief that the decision to violate a law is a rational one, decided by weighing the rewards of the criminal act against the sanction of imprisonment, which is presumed to increase in severity with the length of the sentence. On this basis, longer sentences are considered more appropriate for crimes in which the rewards are especially high or the dangers to society particularly great.

A third role, the most ancient in origin, is that of punishment. In Biblical times, transgression of divinely inspired rules for human behavior fell into the category of "sin" to be punished according to divine command. In modern times, the State has, for most people, replaced religion as the ultimate source of authority, and most people believe that the State has both the right and the obligation to punish violations of its laws. Most people believe that such punishment insures the survival of an orderly society because they believe that anarchy would follow the elimination of punishment; some also believe that punishment improves the offender, just as it presumably improves small children who are punished by their parents.

By contrast, modern day penologists and prison administrators, at least at the level of rhetoric, consider the most important function of a prison to be rehabilitation, the improvement of a defective individual so that he can return to society as an acceptably functioning member.

In addition to the roles prisons play (or supposedly play) in the eyes of the public, prisons perform functions of which the public is often unaware, even though these unrecognized roles are the ones that involve the public most intimately. Crime, police, courts and jails serve, for many, a psychological function by providing the occasion for fulfillment of vicarious thrills and punishment, mental acting-out of suppressed desires to participate in anti-social behavior, and transference of guilt feelings to others, differentiated as sharply as possible from themselves through the label "criminal." Prisons are important in helping to make that distinction. Obviously, the importance of this role cannot be measured quantitatively, but the wide consumption of detective novels and crime films leads one to feel intuitively that this factor is an important one.

Another important function of prisons is helping the public to avoid facing certain unpleasant problems by giving the appearance that something is being done, when in reality, nothing relevant is being done. Instead of trying to understand the origins of behavior that may be perceived as threatening, and then developing modes of action based on that understanding, those who act in the name of society choose a different option - commitment to mental institutions or prisons, the choice being made on somewhat of an ad hoc basis. One reason some people may be reluctant to abolish prisons is that the elimination of imprisonment will require the finding of other ways to deal with problems prisons were intended to solve; as with many social problems, solutions may not be easy to find, and the motivation to find them may be lacking as long as prisons are available and thereby allow people to fool themselves into thinking that something is being done about problems that bother them.

Such considerations, however crucial for an understanding of popular support for imprisonment, are in fact relevant only for an extremely limited number of prisoners, since the great majority of prisoners do not in fact represent particularly serious problems. The most important factor in determining who goes to prison and how long he stays there, is not the anti-social character of an act someone commits, but the social and economic class of the person committing the act, a fact which has far-reaching consequences for the presumed necessity of imprisonment.

A few examples will illustrate the point. Although the most frequently violated federal law is without doubt the income tax law, hardly any of the 20,000 federal prisoners are tax law violators - delinquent taxpayers are not usually imprisoned or even arrested: they are simply made to pay back taxes, with interest and a fine. By contrast, a very substantial fraction of federal prisoners are young men who have been convicted of taking a stolen car across state lines. Those who steal cars are not allowed simply to return the car and pay interest on its value for the time it was "borrowed," with a small fine. The tax evader, who in the conventional view has stolen from the public, is not

punished severely, and is usually not considered to need rehabilitation. The tax evader is pitied for having been caught, and is admited when he succeeds. Typically he comes from a middle or upper income group. By contrast, the car thief, usually from a low income, working-class background, is branded a "criminal" and imprisoned. The one represents no more of a threat to society than the other, and imprisonment is a priori no more appropriate to one than to the other.⁵

Petty burglars may be imprisoned for years. The officials of General Electric, convicted of stealing millions from the public through price-fixing, got thirty days; they returned to business careers, and were not widely thought to present a problem to society. Hundreds of fellow business executives who do the same thing are ignored, while thousands who accumulate fortunes under capitalism, itself a form of legalized theft, are honored. If we can survive without locking up the latter, we can surely get along without imprisoning the small-time thieves, whose take is so much less.

Sex distinctions are also important. In New York, thousands of men are arrested each year, and many imprisoned, for homosexuality, but women are hardly ever arrested for that reason, perhaps because male judges feel more threatened by male homosexuals than by lesbians. The number of female prisoners in the United States is extremely small compared to the number of male prisoners, though no one seems to know whether this reflects a smaller real crime rate or a reluctance to arrest women and sentence them to prison.

On the face of it, incarceration is not necessarily closely correlated to behavior which is objectively harmful to society. Those who seek to stop a disastrous war, or to eliminate racial discrimination, are imprisoned - not those who lead the country into war, or practice racial discrimination. Frequently the big-time criminals, such as Mafia leaders, go free, while small-time crooks are locked up for years. The distinction between "political prisoners" and "ordinary criminals" therefore loses a good deal of its meaning, for the mere designation of certain acts as "criminal" and others as acceptable is already "political" and in our society strongly reflects class, racial and sexual biases.

The above argument, however, shows only that imprisonment is selective, failing to protect us from the wealthiest and most dangerous criminals, but perhaps performing a useful and even necessary function by protecting us from lower class criminals - this might be the popular view; the economic bias could presumably be eliminated by imprisoning wealthy criminals, though this will never happen to any extent in a society based on economic privilege. To show that this view is mistaken, it remains to examine the relevance of prisons to the functions listed earlier: protection, deterrence, punishment and rehabilitation.

Even modern day prison administrators nominally committed to rehabilitation, regard protection as the principle function of a prison, to which all others are relegated a secondary role. This concern leads to an almost unbelievable fanaticism with regard to security inside the prison. Obsession with security might be amusing, were it not so annoying to the men inside, who have to put up with frequent counts, searches, a host of unnecessary regulations and continual surveillance. To see how unnecessary this is, one need only recall the large number of unapprehended criminals not in prisons - compared to this number, a few escapes that might result from a substantial diminution of security measures would make very little difference. And even prison officials concede that very few inmates would attempt escape even if all security measures were eliminated. Then, too, it must be remembered that almost all prisoners

will sooner or later be released from prison, usually within a few years of incarceration, and regardless of any changes in the personality of the prisoner, in many cases despite virtual certainty that they will soon return to prison. On a long term basis, then, prisons provide no protection at all; escapes are presumably feared because of the bureaucratic problems they create, and because of possible negative reactions among the public.

On a short term basis, prisons may protect those outside their walls, but under anything like present conditions, they are unable to protect inmates from the crimes that flourish within their walls. Chicago experienced 1397 forcible rapes outside the walls of Cook County Jail in 1967, a figure probably smaller than the number of rapes committed within its walls. Similar figures have been reported in the Philadelphia prison system.⁶ County jails in large cities are notorious for frequent rapes and beatings, and occasional murders. Most of those confined in this atmosphere are not even convicted criminals: only about 25 % of the inmates at Cook County Jail are doing time on a sentence⁷ - the remainder are there awaiting trial because they cannot afford bail. The crimes committed against the inmate population by other inmates or guards are almost always neglected when considering the "protective" aspects of imprisonment. This is a vivid example of how the label "criminal" is used to de-humanize a human being.

Prisons are also supposed to deter crime. This effect is familiar to anyone involved in draft resistance: the number of draft resisters would no doubt increase were there no prison sentence given for resistance, though by how much no one knows. This illustrates that imprisonment may deter socially desirable as well as socially undesirable acts. To what extent deterrence inhibits other forms of crime is mostly unknown, though one statistical study⁸ indicates that increased length of sentence has little or no effect on crime rates. Psychologists generally believe that rewarding desired behavior is more effective than punishing undesired behavior. It is known that capital punishment does not deter murder more effectively than long-term imprisonment for the same crime. It seems likely that most crimes are not deterrable by imprisonment or any other form of punishment because the decision to commit them is not a rational one in which consequences are weighed in advance. Probably few criminals are able to estimate accurately their chances for success. For example, in those cases where the decision to commit a crime is made rationally, certainty of punishment is likely to be a more important factor than severity of punishment. Since most crimes are not cleared through arrest, most of those arrested are not convicted, and most of those convicted initially are not imprisoned¹⁰, certainty of punishment does not exist in our judicial system, nor is it possible to conceive of a judicial system consistent with civil liberties that could insure such certainty.

We do know that imprisonment is remarkably ineffective in deterring prison inmates from returning to crime after their release. Recidivism rates depend somewhat on the type of institution and the type of offender, and figures¹² quoted are not always reliable,¹¹ but figures of 60 to 85 % are commonly accepted.

These figures, while obviously not encouraging, are open to interpretation: it can be argued¹³ that since "hardened criminals" are more likely than others to be sent to prison, the low "cure rates" are perhaps not so surprising. This, however, amounts to an admission that imprisonment is not an effective way of preventing those convicted of crime from returning to it. Also, the assumption that only hardened criminals are sent to prison is unreliable. While multiple offenders are less likely to be granted probation, many other factors enter. For example, the frequency with which probation is granted varies widely from

one state to another. Furthermore, ^{the} economic status of the defendant is crucially important in determining the disposition of his case. The amount of money he has available will determine the quality of legal counsel he obtains, and in addition will determine whether he is able to make bail or must remain in jail until the trial. This factor is highly correlated to the rate of conviction and to the rate of incarceration following conviction¹⁴.

Given the conditions in almost all jails, what is perhaps remarkable about recidivism rates, as many have commented, is not that they are so high but that they are so low. Holding a man in prison for a crime tends to classify himself in his own eyes, as well as to others, as "a criminal," rather than as someone who has for one reason or another violated a law. This self-conception as a criminal could be an important factor in determining behavior after release, especially when a released inmate has difficulty in finding a job because of his criminal record or lack of job skills, or when he encounters personal difficulties.¹⁵ Furthermore, the stray pieces of information about crime techniques that every prisoner picks up casually in conversation with other prisoners make his return to crime all the more tempting when he encounters difficulty.

Other factors that enhance rather than deter crime after release, are the sexual tension and undercurrent of violence found in almost all prisons. The sexual tension arises from the close confinement¹⁶ and sexual isolation of prison society, and the need to reassert masculine patterns of domination¹⁷ as a psychological defense against forced submission to the authority of prison guards and administration, while the most important factor in promoting an atmosphere of violence is the repressed hatred of guards, which may erupt after release from prison, if not in prison riots or attacks on other inmates before release. The feeling that a sentence is too long¹⁸ and prison conditions unduly oppressive may lead to additional resentment and a desire to "get even" with society after release. Furthermore, the denial of conjugal visiting rights tends to disrupt families and other relationships, making it more difficult for the inmate to do time, and to resume stable relationships on the outside after his release. This enhances the recidivism rate²⁰ - as can only be expected from one's intuitive feelings that personal and sexual maladjustment must be a factor in at least some instances of law violation.

The notion that punishment by itself might improve the prisoner is even more curious than the notion that it might deter him from breaking laws in the future. George Bernard Shaw observed that ^{no} zookeeper would expect to turn a tiger into a Quaker by locking him in a cage²¹ (as was apparently believed by some early Quakers, whose influence on prison administration well into this century was enormous), yet most jailers believe this of their prisoners, as evidenced by the almost universal practice of using solitary confinement, sometimes disguised as "administrative segregation" but just as solitary and just as confining, for unmanageable prisoners, including those who are emotionally disturbed or mentally ill.

While it may be true that children's behavior can be improved by punishment, the analogy with socially deviant adults is misleading. For punishment seems to succeed in improving children's behavior only when administered by a loving adult or respected authority in the context of a generally supportive emotional environment, which, needless to say, is not present in prison. In addition, punishment of a child's misbehavior can succeed in modifying that behavior only when the child is able to act differently. In those instances when undesirable social behavior arises from uncontrollable mental disorders or lack of those educational or vocational skills needed to survive by legal means in our society, punishment is at best irrelevant and in some cases may be quite harmful.

Going beyond the question of whether punishment does any good, to the question of whether punishment should be administered anyway, even when it is known to serve no useful purpose, as Kant believed²², one immediately becomes entangled in a web of essentially unanswerable questions such as the relative degree of individual versus societal responsibility for law violations, and our inability to formulate self-evident criteria for determining standards of justice in meting out punishment²³.

Quite apart from these questions, punishment by the State often appears as it did to Thoreau - childish and vindictive - a mere emotional outburst in which the State expresses anger at its inability to control its subjects. It is much like a temper tantrum, disguised by the ritual formality and cold impersonality of courtroom procedure.

In a moral sense, the propriety of punishment at the hands of the state seems especially questionable. A government responsible for the murder of thousands or millions in war is not in a very good position to pass judgment on domestic killers, whose body count has no hope, in a lifetime, of matching what the state frequently accomplishes in a day or week. The overwhelming majority of murders committed in this century have been committed legally, by governments in wartime. The largest thefts in our country have been thefts of land guaranteed by treaty to Indian tribes and Chicanos in the Southwest - thefts sponsored by our government. The largest number of kidnappings - those of Japanese-Americans during the Second World War - were carried out by the government with approval of the courts, and government kidnappings for ransom take place everytime a person is arrested and held in jail before trial because of his inability to pay bail. Suppression of civil rights and civil liberties for minority groups and unpopular political organizations by governments at all levels, is a familiar and sad story. The assumption of moral superiority implied when a government punishes a lawbreaker is incongruous and unjustified by reality. A black robe is no more a proof of purity than a white wedding gown.

We come now to the topic of rehabilitation. This is of course a highly political topic - rehabilitation in military prisons is intended to prepare prisoners for returning to the army. The goal of rehabilitation has sometimes been criticized on the grounds that it seeks to reconcile the prisoner to a society which should be changed, rather than adjusted to. This may be too hasty a verdict, however, since effectiveness in changing a society already requires a certain degree of autonomy, self-discipline and possession of the ability to navigate in the existing society. Be that as it may, "rehabilitation" serves as the source of a good deal of bitterness to prisoners, for despite much talk and slick government brochures (often printed in prison print shops) about rehabilitative programs, very few of such programs can be found inside most prisons. Rehabilitation is still regarded as a luxury, something to think about after security and maintenance are insured. As a result, neither adequate funds nor staff is available for rehabilitation or treatment programs in most prisons.

Rose Giallombardo's study of the Women's Federal Reformatory at Alderson, West Virginia²⁴ illustrates this point. Officers are instructed to do what they can to "treat the inmates," after their other duties are finished. However there seem to be so many other duties that not much time for this is available. Officers who do have free time prefer to spend it alone in their offices. Only 3.3 % of the officers are college graduates. Most come from rural areas, work in the prison system primarily for the money, and are considered by inmates to be ignorant of the urban conditions in which the inmates are accustomed to living. Most have no training in counseling or any type of rehabilitation work. The remote location of the prison (a typical feature of many federal and state institutions) makes the recruitment of officers difficult, since few are anxious to accept the social isolation. Indeed, the captain, before interviewing applicants for jobs as officers, is quoted as remarking, "I'll be happy just to have a warm body."²⁵

The scarcity of trained, competent staff is a problem everywhere. Alfred Schnur²⁶, quoting figures from the Federal Bureau of Prisons, points out that for the 161,587 inmates in state and federal prisons in 1954, there were 23 full-time psychiatrists employed; on the basis of a 40 hour week, each inmate was able to receive 82 seconds per month of psychiatric care. The 67 psychologists and psychometrists were able to supplement this with an additional 4 minutes per month for each inmate. On the same basis, the 96 institutional parole officers were able to spend 6 minutes each month with an inmate, the 155 chaplains, 10 minutes a month, and the 257 employees responsible for individual casework, less than 16 minutes a month. These figures are based on the ridiculously over-optimistic assumption that the relevant staff member spends all of his working hours with inmates. This is of course not the case. Much of his time will be spent in administrative tasks, handling records, working with the custodial staff, and sometimes leading group therapy sessions. It seems clear that an inmate who needs psychiatric or psychological therapy of some kind is not too likely to get it in prison. Even the Bureau of Prisons admits the inadequacy of therapeutic programs in the federal prison system, where standards are generally higher than those in state or local institutions.

It should not be assumed, however, that all, or even most inmates are mentally ill and in need of psychiatric treatment, although this view is a popular one among members of the "enlightened" public. The fact that adult crime rates increase directly with the unemployment rate, especially for property offenses²⁷, which constitute about 90 % of all crimes committed, or that rates of delinquency among nationality groups whose children at one time figured prominently in juvenile court statistics declined as these groups improved their economic and social status and moved out of neighborhoods with high delinquency rates²⁸, indicates that much crime is socially produced and has little to do with mental or emotional problems of the individual, except as they may relate to his membership in a group whose position in society creates problems for the group's members.

A substantial number of prison inmates simply lack the educational and vocational skills to function successfully within the law on the outside. Vocational rehabilitation programs are intended to help these inmates. Too often these involve unskilled labor whose main purposes are to help maintain the institution at the lowest possible cost, and to keep the inmates occupied during the day, not to help inmates prepare for a good job outside. Such programs help to keep inmates at the bottom of the economic ladder and increase the likelihood that the inmate will return to crime after his release: crimes committed for financial gain are usually not very lucrative, and hold little appeal to someone with a good job, but even crimes with small financial returns may appear worthwhile to a person who is unemployed or employable only at bare subsistence wages.

Some programs, such as those in Prison Industries, Inc., may prepare inmates for decent jobs outside, though the prison record is still a significant handicap in getting them. The number of prisoners allowed to participate in such programs is usually quite small. Furthermore, the programs are often closely involved with the military. Like much of what passes for higher education in the colleges and universities, prison industry programs serve primarily to train workers and technicians for the military-industrial complex at public expense.

Rehabilitation programs also include education. The low level of educational attainment of most inmates suggests that educational programs might be one of the most valuable services a prison could offer to its inmates. But the quality of educational programs is often poor, and the results have not been outstanding. In fact, for most prisoners, the usual duration and type of involvement in prison education programs is associated with higher than average post-release failure rates!²⁹ In many institutions, inmates attend courses in the hope of impressing the parole board with a good institutional record, which may explain this surprising result. Technical innovations, such as teaching machines are being introduced in some institutions, and could conceivably help to compensate for the lack of qualified teaching staff, but often at considerable cost: the introduction of teaching machines in a number of federal prisons was accompanied by the abolition of the prison libraries.³⁰

A certain number of prisoners may in fact be unrehabilitatable, in the sense that their ability to acquire a stable life pattern and marketable skills may be quite limited. At best, they may be able to eke out a subsistence living at the most tedious and unpleasant jobs our society makes available, while others may be totally unemployable. In a productive economy based on sharing, this would present no difficulties at all. In a society based on competition, difficulties arise when such individuals acquire the values of a society where status is determined primarily on the basis of success in material acquisition, but lack the ability or motivation to compete successfully within the legal framework. The unsuccessful individual may respond to his situation in a number of ways, including law violations. Unfortunately for the individual involved, his incompetence may limit his success in this area also.

Such an individual is not a good candidate for rehabilitation, both because he is less likely to refrain from law violation after release, and because he is more likely to get caught. These two factors presumably help to explain why thieves have a high rate of recidivism compared to other criminals²⁹. Another obstacle in the successful rehabilitation of this category of law violator is that unlike some prisoners (such as conscientious objectors) whose values differ in some way from those of society, his values coincide with those of society; a rehabilitation program revolving around a change in attitudes runs up against some of the most basic attitudes of our society. The inmate pictures himself, not unrealistically, as no different from the hustlers and con-men on the outside, who didn't get caught or bribed the judge or whose actions happened not to be illegal even though they had the same character and motivation as those committed by the inmate.

As with many categories of criminal activity, we have the choice of tolerating this category of crime as one of the costs of living in an acquisitive society, or of modifying our values and social structure. For example, much theft might be eliminated if we had a guaranteed annual income or a socialized economy. Likewise, insurance, because it socializes the costs of theft, makes theft more tolerable because it is then less costly to any one individual victim. Other examples of institutional arrangements that would minimize crime and/or its costs to individuals can easily be multiplied. Frequently such arrangements would result in other benefits as well. A drastic reduction in private car ownership in favor of publicly owned transportation would have ecological benefits in addition to reducing the rate of car theft and

traffic accidents. Similarly, a guaranteed annual income would have benefits reaching far beyond the reduction of theft.

The room for improvements in rehabilitation programs is clearly great, though the precise direction in which improvements and innovations should be made is not always completely clear due to our astonishing lack of knowledge concerning the relative effectiveness of various programs now in existence. The design of such improvements, however, is not our present aim. Here we want to emphasize that any rehabilitative program, to the extent that it aims to change only the inmate, is inadequate. Rehabilitation is no substitute for changes in the larger society that will make rehabilitation, whether psychiatric or vocational, unnecessary.

We also want to stress that within the prison framework, severe limitations exist in the extent to which improvements in rehabilitation programs are possible.

A person incarcerated after conviction for a crime experiences what have come to be known as the "pains of imprisonment." ³¹ These psychological "pains" arise from his being deprived of the liberty to which he was accustomed before his incarceration, from his being deprived of all material belongings, which in our society play a major role in helping an individual to form and maintain a sense of his own identity, from the denial of heterosexual relationships, the lack of autonomy, and the forced association with others, resulting, as it does, in a feeling of anxiety over lack of security when these others are also criminals. To this list we may also add the monotony of ^{the} prison routine and the almost total lack of privacy. These deprivations are significant for us both in themselves and because of the compensating mechanisms inmates develop to cope with them.

The denial of liberty and autonomy is an obstacle in preparing an inmate for life outside prison, where he will have to make decisions on his own, affecting both himself and others. An individual's ability to act responsibly can be acquired or strengthened only through his being given the opportunity to exercise responsibility. Prisons subvert the development of an inmate's autonomy by reducing him to a wholly dependent status in which every aspect of his life is governed by rules, whose reasons the inmate is not entitled to know and in many cases may not exist, and in whose formulation the inmate was allowed to take no part. The reasons for this are obvious: it is much easier to manage a herd of docile, obedient creatures than a group of responsible, thoughtful human beings. In a prison setting, the goals of responsibility and autonomy will always be sacrificed in the interests of trouble-free maintenance of the institution.

The denial of heterosexual relationships is likely to compound difficulties an inmate may have in relating to those of the opposite sex, particularly when the denial takes place in the context of a prison, which in other ways challenges an inmate's sense of his own masculinity ³². And the endless monotony of prison days and nights following one another in unchanging succession tends to dull the mind, destroying alertness and initiative, again subverting rehabilitation goals for the long-term prisoner.

The prisoner responds to his unpleasant position in such a way as to minimize his discomfort and to maximize the small benefits he may receive while in prison, by assuming one or another of the fixed social roles that differentiate prisoner society, and by adopting social values of the inmate society, values whose adoption help to neutralize the pains of imprisonment (We are over-sim-

plifying here, since not every prisoner accepts these values to the same degree, and since, to a certain extent, inmate society values may be brought into the prison from the outside, not only created by the prison society). Briefly, the inmate social system promotes group solidarity, the sharing of scarce material goods, and provides emotional support to an inmate in dealing with the degradations and humiliations of prison life.

One of the most pronounced features of the inmate social system is its hostility toward the guards and members of the prison administration.³³ This seems to arise partly from the need to inhibit informers, partly from the natural resentment of those who forcibly impose submission, humiliation and obedience to senseless and annoying regulations, and partly as a psychologically protective device that deflects the self-hatred that might in many cases accompany imprisonment, from oneself to members of another group.

Hostility of inmates for guards is often so great as to prevent ordinary conversation between guards and inmates; communication between members of these two groups must ordinarily be limited to an absolute minimum to prevent an inmate from being suspected as an informer. Ernest Ostro, recently released from a federal prison tells of one prisoner at Lewisburg Federal Penitentiary who claims never to have spoken to his cellblock guard in thirteen years of imprisonment, with the exception of once on the day of his incarceration, and once when he was released.³⁴ An unusually humane guard may in some instances be able to overcome this barrier, but this is rare. The jobs a guard has to do ordinarily prevent him from showing much humanity. Needless to say, this hostility precludes the possibility of guards playing an effective role in "treating" prisoners, even if they were competent to do so.

Furthermore, the conflict between organizational needs and the needs of individual treatment, whether vocational or psychological, make these two incompatible: to a considerable extent, the existence of a prison and its organizational needs, which, in a large institution necessitate considerable regimentation, make rehabilitation programs impossible to carry on.³⁵

The guards at Alderson²⁴ who spent their free time alone in their offices instead of following the meaninglessly vague instructions to "treat the inmates" when they had time, were merely recognizing the mutual incompatibility of incarceration on an involuntary basis, and the needs of treatment. Treatment by non-supervisory staff may be less subject to this limitation, but trained, competent staff are ordinarily not available for this purpose, and when they are available, they may be looked upon with suspicion by the custodial staff, which may sense a threat to its authority. Furthermore, the success of any program of psychological or psychiatric therapy is ordinarily thought to depend on the voluntary character of participation. A recent book describing the counseling programs in the California state prison system, which has gone farther than any other state in implementing widespread treatment programs by non-custodial personnel, concludes, "Until the present time there have been no satisfactory studies offering the essential data regarding the effects upon the inmates exposed to the correctional community."³⁶ The authors express their personal beliefs that the results will be no worse than the traditional prison routine, which is of course, not saying very much.

One important experiment, at Highfields, New Jersey,³⁷ strongly suggests that counseling programs, at least for delinquent juveniles, tend to be much more successful than traditional reformatory programs, at least in terms of reducing recidivism, when conducted in a non-coercive atmosphere. This program was established for delinquent 16 and 17 year old boys without previous prison experience, who would live together in a building housing about 20 people, for a period of

about 4 months, instead of being sent to the penitentiary at Annandale for at least a year. The group meets daily for group counseling with a counselor, who is also director of the center; other staff include a husband and wife who serve as houseparents and do maintenance work, and a handyman, to help boys with their hobbies. There are no guards, nor is there any other visible sign of coercion - no walls or fences. Boys are able to go to nearby towns with an adult, may go to church in nearby communities, or home on furloughs. A comparison study was done to determine changes of attitude and comparative recidivism rates with boys who had been sentenced to Annandale, and who had similar backgrounds and criminal records. In neither case were the changes in attitude very striking between the time of imprisonment and release, but the recidivism rates were impressively smaller for boys sentenced to Highfields, especially for Negro boys.

Vocational training and educational programs, if upgraded, could be valuable to those whose primary motivation for crime was economic; but this training need not take place in prison, as is recognized by those few institutions making use, on a very limited basis, of work release programs. There is no need to put a person in jail before training him for a job. In fact, it seems somewhat irrational to provide job training only to those who have first committed a crime. The time for education and vocational training is before a crime has been committed. Other factors that diminish the value of in-prison job training are the small numbers such programs can accommodate, the low standards of workmanship and the deliberately slow work rates maintained by prisoners who resent being forced to work, especially at the extremely low pay scale of prison industries. It would be much more sensible to free the prisoners and provide vocational and educational programs on the outside.

These aspects of prison life which subvert the goals of "rehabilitation" are reinforced by the moral corruption of prison life, in which small-scale embezzling, bribery and favoritism abound. These factors seem to appear in the functioning of any large, total institution, not just prisons.³⁸ The role of officers in these activities is frequently not small, and may lead to a good deal of cynicism on the part of inmates, reinforcing the views of those who see no fundamental distinctions between themselves and those on the outside. Even when the corruption primarily involves inmates, it is likely to be admired by the other inmates as a successful violation of administration-imposed rules, particularly when the fruits of corruption are shared. Clearly the prison environment is not one that is likely to encourage the development of respect for law.

If we rule out purely retributive punishment as pointless, our survey of the functions that prisons are supposed to serve leads to the conclusion that prisons are not known to serve any useful purposes. The vocational, educational and psychological treatment programs are largely undermined by the precedence given to security and maintenance of the institution, and could be operated much more successfully for those who want them, outside of prison, and on a voluntary basis. Since such programs would also be open to those who have not yet committed any crimes, this could also become a major contribution toward crime prevention. At the same time it will be necessary to eliminate the economic factors that lead to crime. In the long run, reorganization of society could eliminate much of the crime we see today. Probably no social reorganization will ever succeed in wiping out all manifestations of anti-social behavior, but this need not be a serious problem, even if alternatives to imprisonment are not found. A society that is prepared to tolerate 56,000 traffic fatalities a year has no reason to be worried about occasional murders; a society that squanders many billions a year on armaments is not really worried about petty theft; it only thinks it is.

Yet, while fear of occasional murders may be irrational, people nevertheless are afraid, and will have to be shown alternatives, if they are to support a step like prison abolition. One simple possibility is to follow those who have committed crimes of violence, and physically restrain them from repeating their acts. Another possibility is to make guns inaccessible. A third possibility is suggested by penal institutions in other countries. Mexico, for example, maintains Tres Marias, an island penal colony for prisoners with long records of previous offences, with sentences of twenty years or more for murder, assault and other crimes of violence. Prisoners have complete freedom on the island's 34,000 acres. After an orientation period, the prisoner's family may join him, and he selects a house in which they live. Prisoners can farm, start a business, or work for one of the businesses on the island; male and female prisoners may marry one another, and they may marry someone from the non-prison population on the island. Prisoners are counted only once a month, the only day on which they must wear the prison uniform. There seems to be no difficulty in maintaining a normal, healthy environment, so that Tres Marias is not plagued by the homosexuality and constant violence of American prisons - there are only occasional fights between two men over a woman - and prisoners are not plagued by problems of psychological readjustment after their release.

Need such a program operate only on remote Atlantic islands? The experience of the van der Hoeven Kliniek in Holland^{40,41} indicates not. Holland has a very low rate of criminality compared to the United States - the per capita crime rate is only 1/5 of ours, so that the total prison population is only about 2600. These are divided among 43 prisons, on the basis of sex, age, character and length of sentence, mental problems, type of crime, and the prisoner's preference for solitary confinement as compared with dormitory living. This results in a highly homogeneous prison population of small size, making individual treatment much more feasible than in this country. The criminally insane are sent to the clinic in Utrecht, where they undergo intense psychotherapy. There are no guards and only a low wall. Inmates may go outside to visit families in the vicinity, and may participate in a work-release program. Despite the lack of security restrictions, only one serious incident occurred in ten years of the clinic's operation. The success of this clinic allows one to imagine small centers located in a community, where those who have committed very serious crimes of violence might undergo highly individualized treatment programs, with their families and friends, looking toward reintegration in the community. It goes without saying that cooperation and support of community groups would be essential to the success of a program of this kind.

Just as prison abolition would force us to find new ways of dealing with the problems prisons were invented to solve, the success of new experiments, along the lines just indicated, or perhaps along quite different lines, would do much to stimulate a movement for prison abolition. Another approach to prison abolition involves the efforts of those inside at making prisons unworkable. Prisons, like the Selective Service System, function primarily through the cooperation of those whom they oppress. Both systems are highly vulnerable to systematic organized opposition from within^{42,43}. The task of those outside is public education and support for the efforts of those inside. This will obviously be no light task given the present climate of public opinion.

In the meantime, a number of reforms could be instituted to improve the situation of those in prison, and bring closer the day when prisons can be eliminated. It should be understood, however, that all reforms are not equally desirable.

It is clearly preferable to win rights which cannot be taken away, as compared with privileges which can be revoked, since the threat of removing privileges can be used to control inmates. Reforms involving special privileges to certain classes of inmates, especially the overtly political prisoners, are especially undesirable; their effect is to divide those who must be solidly united if their opposition to the prison system is to have any chance of success. Reforms which are especially desirable are those which help a prisoner to keep his head together and thereby resist the efforts of the prison system to break his spirit, and those which will give the prisoner weapons that he can use to fight the prison system.

My own suggestions for reforms, consistent with these criteria, are:

1. Prisoners should be entitled to all civil liberties guaranteed by the constitution, including the right to unlimited, uncensored correspondence with anyone, the right to receive any books, magazines or newspapers, to receive visits from anyone, the right to publish articles, and to hold political meetings in prison. These rights would help reduce a prisoner's isolation, will reduce the power an administration has over inmates, and above all, will allow him to publicize conditions in the prison.

Prisoners should be entitled to all rights of due process for infraction of prison regulations. The present Disciplinary Committees do not meet this requirement. The inmate should be able to appeal any decision to an appeals committee of non-prison personnel. Solitary confinement, when involuntary, should be eliminated as cruel and unusual punishment. To a certain extent, it may be possible to win some of these rights in the courts, but the efforts of prisoners will be crucial.

2. Indefinite sentencing should be eliminated. Although the Federal Bureau of Prisons hails this procedure as "a milestone in Federal Sentencing,"⁴⁴ inmates find that it has more the character of a millstone about the neck. Inmates find it difficult to adjust to a sentence of indeterminate length. Ward and Kassebaum⁴⁵ found this uncertainty to be a major contribution to the pains of imprisonment of adult women offenders incarcerated at a California State Penitentiary. Prison officials like the practice because it increases their control over the inmates. Unfortunately for the inmates, those sentenced on this basis frequently find themselves doing much more time than those given a fixed sentence for the same offense.⁴⁶ The argument in favor of this type of sentence, that it allows for "individual treatment" of the prisoner is vitiated by the absence of such treatment in prison, and indeed the virtual impossibility of providing it in an institutional setting. It also poses a serious threat to civil liberties.

3. No prisoner should be forced to work. Most work in prison is tedious labor necessary for the maintenance of the institution, or for the purpose of presenting a favorable image to the public. While many inmates are willing to work to help pass the time, no one should be forced to do so. Pay and working conditions should both meet union standards. Pay comparable to that earned for equivalent work done on the outside is given in Finland, in the Netherlands, and in the U.S.S.R.⁴⁷ Much of the additional cost would be absorbed by the removal of inmates' families from welfare roles, and the reduced probability that a prisoner with substantial cash savings will recidivate if he is unable to find a job immediately after his release.

4. Each prisoner should be entitled to a monthly cash allowance to pay travel expenses for friends and relatives who wish to visit. At Alderson²⁴, only 12 % of the inmates received visits in 1962, presumably because the distance and expense involved in travelling to a remote spot were prohibitive to friends and relatives of many of the other inmates. The value of frequent visits to the emotional well-being of prisoners is considerable, and the expense involved need not be prohibitive.

5. Widespread use of recognizance bonds would drastically decrease the population of county jails. This alone would make county jails much more livable for those doing time in them. The money saved could be used in a variety of ways to improve living conditions for prisoners. The fact that imprisonment rates for those arrested could be expected to drop dramatically¹⁴ as the use of recognizance bonds increased would result in further savings. Experiments with recognizance bonds in several cities have indicated that forfeiture rates can be kept quite low. The need felt by "law and order" advocates for "preventive detention" might be obviated by the speedy scheduling of trials.

6. Many "crimes" could be eliminated from the lawbooks as unnecessary or harmful. Crimes without victims, such as narcotics laws, abortion laws, laws against a variety of voluntary sex acts between consenting adults, such as homosexuality and prostitution, and the Selective Service Act, fall into this category.

7. The use of probation as an alternative to imprisonment should be extended widely. Judges are frequently reluctant² to overburden an already greatly over-extended probation service (more than 2/3 of those under felony probation and more than 3/4 of those under misdemeanor probation are in caseloads of more than 100, and hardly any are in caseloads of under 50), and in such circumstances substitute incarceration for probation. Prison administrators estimate⁴⁸ that from 25 to 40 % of their inmates could have been sentenced to probation, and the number is very likely larger, even using a prison administrator's standards, since a prison administrator may be biased in applying his own standards to an inmate population.

. Clearly the situation could be alleviated by significantly increasing the size of the probation staff and the facilities available to it. Since the financial cost of keeping a man in probation is small compared to the cost of imprisoning him, the money saved could be used for financing the expansion of parole and probation programs⁴⁹. The Swedish practice, of obtaining small caseloads by using volunteers, should be tried.

8. A prisoner should be able to see and to insert material in the records kept on him by the prison administration. This is important because negative reports inserted by the administration in his record may jeopardize his chances at parole.

9. Prisoners should have the right of conjugal visits at frequent intervals, from spouse or other women. No laws are needed to allow this. So far as I am aware, any warden could institute such a program any time he wanted to do so. In the United States, only the Mississippi State Penitentiary at Parchman⁵⁰ permits conjugal visits. The program there, begun in 1956, is limited to wives of prisoners. In the opinion of the warden, homosexuality has been reduced, and the program has worked out well. This seems to be the case in Sweden and in Soviet penal labor colonies⁴⁷ where visits are allowed 28 times a year.

The value of conjugal visits to the prisoner and his family, are obvious.

10. Present top leadership in the Bureau of Prisons should be replaced.

What is needed is bold, creative, innovative leadership in undertaking experiments that could eventually make the Bureau unnecessary.

CAVEAT CAPTOR !

FTFBP

1. George Bernard Shaw, The Crime of Imprisonment (Philosophical Library, New York, 1946), p. 13
2. "The National Profile of Correction," Correction in the United States, Crime and Delinquency (National Council on Crime and Delinquency, January, 1967), pp.229-60.
3. This paragraph should not be interpreted as meaning that the author believes people should pay federal income taxes. He believes it would be better if they did not.
4. For a sample set of penitentiary rules, see the "Rule book for Iowa State Penitentiary," in Norman Johnston, Leonard Savitz and Marvin E. Wolfgang, The Sociology of Punishment and Correction (John Wiley and Sons, Inc., New York, 1967), p. 87
5. Virgil W. Peterson, A Report on Chicago Crime for 1967, (Chicago Crime Commission, Chicago, 1968)
6. Alan J. Davis, "Sexual Assaults in the Philadelphia Prison System and Sheriff's Vans," Transaction (December, 1968).
7. On November 30, 1967, Cook County Jail held 1913 inmates. Of these, 88 were awaiting trial in federal court, 1449 were awaiting trial or court action in local courts. Only 464 inmates were serving sentences (see Ref. 5). Of the 1654 women held in Cook County in 1964, only 99 were sentenced to do time there.
8. George Rusche and Otto Kirchheimer, Punishment and Social Structure (Russell and Russell, New York, 1968), pp. 193-205
9. Thorsten Sellin, "The Death Penalty Relative to Deterrence and Police Safety," in Johnston, Savitz and Wolfgang, op. cit., p. 74
10. Paul W. Tappan, Crime, Justice and Correction, (McGraw-Hill Book Co., New York, 1960), p.363
11. Due to cases of arrests not being reported, quoted figures may underestimate the true rate of recidivism, especially for older data. Another factor that leads to underestimation of the true recidivism rate is that data report only arrests, that is, cases where the criminal was caught. If the crime was committed successfully the information will not be reflected in recidivism rates. This factor is never mentioned in sociological studies of recidivism, showing how even impartial and "objective" observers tend unconsciously to accept official values of the prison administration, which mostly concern themselves with the narrow functioning of the prison system, rather than with the society at large.