

## **Mary Corcoran (2021) 'The Woolf Report 30 Years on: the third sector legacy'.**

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### Abstract:

This paper considers the response of activists and prison reforming NGOs to the prison disturbances in England in 1990. These prison uprisings led to an apparent flourishing of cooperation between the criminal justice authorities, state and civil society actors. However, the paper questions the role of official patronage in anointing preferred NGOs and delineating limited modes of engagement with more critical or radical participants. Corresponding with these apparently democratising initiatives were early signs of a counter trend towards the political containment and taming of civil society actors – especially those of progressive persuasion - a trend which has conspicuously hardened into outright hostility under the authoritarian Conservative government elected in 2019.

### Introduction:

My task today is to briefly consider the legacy of the prison uprisings of 1990 (in HMP Strangeways and other prisons across England) in sparking critical public discourse and activism on the part of the third sector/broader civil society. First, I mark the voices and activism of prisoners, the formerly incarcerated, their families, loved ones and all those directly affected by crime and associated social harms, and whose ongoing struggles bear witness to the work which has yet to be achieved. I also want to respond to the question of working together across a seemingly demoralised and fragmented penal reform/abolitionist front at this fractious and dangerous moment for civil society. This contribution makes tentative observations with the usual caveats that there are significant gaps in the research and the official records, especially with regards to the 'histories from below'.

For the purposes of discussion, civil society refers here to the assemblage of bodies that are formally unaffiliated with government or business/for profits, where citizens organise to pursue civic or public goals. These are disparately formed into organisations ranging from volunteer groups, charities, trade unions to large, wealthy institutionalised interests such as universities or the mass media). By third sector I mean groups of activist, advocacy, volunteer, charitable organisations who provide practical support and advocacy/campaigning for civic or welfare purposes or combinations of both. I also accept that these definitions are problematic and by no means imply a lack of alignment with structural or institutional power.

In this talk, I make three claims:

Firstly, Strangeways presented a momentary, critical interlude for galvanising solidarity, which didn't translate into hoped-for institutional change (although the recruitment of 'lay' expertise to a raft of new governing/scrutiny bodies from the 1990s onwards permitted some limited participation and influence in implementing some

reforms). The measures, post Woolf, which created governmental bodies and quasi-governance openings for 'lay' participation in scrutinising what happened in police and prison custody (the Independent Monitoring Board, which eventually replaced the Prison Visitors Boards is one example) was arguably largely successful in integrating critical voices into the status quo. Reforms to render the prison system more 'transparent' and accountable were a priori contingent and circumscribed. Set against this mainstream narrative of official responsiveness is the subordinated and patchier history of this period as mobilising solidaristic and radical activism, which later materialised as self-organised groups supporting prisoners, families and those affected by imprisonment, some of which are still in existence (Partners of Prisoners (PoPs) although founded before the Strangeways events, is still a vital service.

Civil society and NGOs featured marginally in the Woolf Report, although their contributions to proceedings are listed under 'outside bodies' in the appendices, while the testimonies of prisoners' families and advocacy groups were admitted as 'private individuals'. However,, Woolf and Tumim acknowledged a public legitimacy deficit arising from excluding external standards and bodies, alighting on the prison service's rebuttal of proposals of a code of practice and standards despite the 'considerable common ground as to what should constitute standards based on European Prison rules and UN Standard minimum rules.' The pushback from the Prison Service is all the more notable given the modesty of Woolf's recommendations that such a code would initially 'not be legally enforceable but would act as a measure of progress' and once achieved 'a decision can be made about whether they are to be made legally enforceable' (Howard League, 1991, 20).<sup>1</sup> The Board of Visitors (who nominally represented independent lay scrutineers) were summarily dispensed with: 'the public and prison service have cause to be indebted to the Boards of Visitors – they should lose their adjudicatory powers –and a president of the BoV should be directly appointed by the Home Secretary (to ensure accountability). In subsequent parliamentary debates, Lord Longford paid 'tribute in passing to the services rendered to all those interested in these questions by at least three organisations and no doubt others. In particular I am thinking of the Prison Reform Trust, NACRO and the historic Howard League' (Hansard, 23 July 1991, col730)<sup>2</sup>. It is to the 'unnamed others' to which I want to turn:

Banished to the margins of the official record then, and now, were the voices of prisoners and supporters as self-articulating and self-organising protagonists with programmes of practical demands for redress and protections - a genealogy which stretches at least back to Radical Alternatives to Prison (RAP) and the Preservation of the Rights of Prisoners (PROP), both active in the 1970s and with antecedents in the anti-psychiatry, prison abolition and black consciousness movements. Contemporary press reports on the scenes at Strangeways reported vigils by 'supporters' and 'political groups such as anarchists, Class War and Revolutionary Communist Organisation. The delegitimation of critical activism through association with 'radicals', troublemakers subsequently took more programmatic forms after the mainstreaming of the penal voluntary sector.

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<sup>1</sup> Howard League (1991) 'The Woolf Report: A Summary. Howard League: London.

<sup>2</sup> Hansard (1990) House of Lords Debates, 23 July 1991, col730.

This example alludes to what is left unmarked in the recorded history of citizen's participation: the discursive practices that reproduce officially sanctioned modes of civic activism and corresponding marginalisation of those demanding far-reaching or structural change to criminal justice. This refers specifically to the privileging of officially sanctioned and bounded forms of participation on the part citizens volunteering as lay scrutineers, and to NGOs who envisage their role as that of critical friends of government vis-à-vis criminal justice policy. I acknowledge that the alternative to 'lay' or 'civilian' participation is either an entirely professionalised workforce or state-appointed and quasi-independent agencies which controverts the veneer of legitimacy that can be bestowed by including civil society actors. Moreover, these points do not devalue the role of citizens, but target the restrictive imaginary of official approaches towards involving citizens which essentially emanate from a core concern with holding civil actors in check. Corresponding with, and submerged in mainstream discourse, is a subtext which renders critical, abolitionist, reductionist or alternative approaches to criminalisation to the realm of the unreasonable and preposterous. 'Sub-text' here means the assumptions, codes or normative beliefs that are usually unexamined and implicit, but which tell of the exclusion of relations marked by conflict, exclusion, silencing and struggle from the narrative of citizen participation in prison reform.

The evidence is suggestive (and yet to be documented comprehensively) that this period reignited a 'second generation' of radical organisations advancing the rights and interests of citizens affected by state violence, fighting for accountability for state harms and malpractices, and highlighting the structural criminalisation of Black, working class, women, minority groups. The work of Inquest, Women in Prison, and latterly, United Friends and Families Campaign, JengBA (amongst many others) have been instrumental in highlighting failures to preserve life or protect those in state custody. That this elementary function of the social contract needs to be undertaken by citizens attests to the appalling and frightening failures of governments in these regards, and the added damage caused by the stonewalling and denial of the state, forcing families and survivors into years of exhausting struggle.

Next, this paper claims that the apparently democratising trends of the Blair, Brown and Cameron governments in engaging civil society are offset by the de-democratising tendencies promoted by governmental partisanship in distributing its patronage and legitimating preferred types of charitable activity (while marginalising critical advocacy and dissent).<sup>3</sup>

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<sup>3</sup> By convention, the contribution of civil society actors is a prerequisite condition for democratic accountability and public legitimacy of prisons; affirms the 'electoral, social and civil rights of prisoners' (European Rules; 2006; s54) and 'emphasises the importance of involving outside social services. The rules should encourage an inclusive rather than an exclusive policy. This necessitates promoting close co-operation between the prison system and outside social services and in involving civil society through voluntary work or as prison visitors, for example (European Rules; 2006; s42). European Prison rules (2006) notes that civil society should be actively involved in inspection/monitoring, the provision of medical treatment/standard should not be lower than that available in civil population, that prison administrations should engage constructively and openly with civil society including the provisions that 'The prison administration should develop good

At first sight, the Labour government's agenda for adopting the Deakin Report on The Future of the Voluntary Sector and the Compact of 1998, between government and representatives of the third sector was initially celebrated as a long-awaited recognition of contribution of the third sector to the welfare economy, [although it proved problematic and divisive and limited and was 'discontinued' by the Coalition government in 2012]. Signatories to the Compact endorsed an emerging political vision of state-third sector relations based on recognisably neoliberal governmentalities in two ways:

Firstly, through the semantic reframing of social purpose to that of 'reducing reoffending', deliverable by aligning projects to the goals of 'offender management' and resettlement pathways. Secondly, the incorporation of third sector bodies as a further reserve of service contractors for expansionist penal markets advanced the economisation of the state and social policy. For most, participation in the 'mixed penal service market' has been detrimental as gains have not offset losses (a minority have benefitted). Income inequalities within the sector – already divided between the 'supercharities' and the rest – increased. Under contract funding regimes, governance and accountability are reframed around supposedly 'neutral' market transactional terms and obligations. Nuanced and highly developed programmes designed with whole-person needs are simplified to minimalist and prescriptive outcomes. Terms of contract based on payment by results do not pay for so-called soft, relational tasks, leading to the further extraction of emotional labour value from staff – many women. The requirement to implement 'a punitive element'<sup>4</sup> under certain contracts further facilitates the trend towards unthinking social production within 'mainstream' criminal justice delivery (with 'unthinking' referencing both the limits placed on reflective practice and inadmissibility of creative knowledge production) in that space.

That the state reserves a right of qualification and legitimation of certain third sector bodies and activities (and to disqualify and delegitimize disfavoured participants) which has been in evidence for decades but which has crystallised in a starkly neo-feudal forms under the contemporary government.

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relations with their local public and media, and inform them about the daily realities of prison life. Prison administrations should encourage prison directors to meet regularly with groups in civil society, including non-governmental organisations, and where appropriate to invite them into the prison (European Prison rules; 2006: s90).

<sup>4</sup> Unavoidable questions about punishment and the penal dimensions of working with criminalised people confront the uncritical and insistent discourse that interventions by third sector bodies are always and already beneficent and benign. The requirement to implement punitive function when providing state contracted services may elicit different forms of pragmatic trade-offs (including subversive or resistance practices) on the part of programme providers. However, the dilemma of coproducing punishment with the state also generates neutralising scripts on the part of projects eliding the question of punishment.

My final argument is that this trend can be traced back at least to 2012 with series of campaigns to curb and delegitimize third sector/civil society's right of critical advocacy, promoted by the output of right wing think tanks such as Policy Exchange (2020) and Institute of Economic Affairs whose pejorative characterisation of campaigning bodies 'as sock puppets' (mere ciphers for left-wing vested interests) informed legislative measures in 2016 whereby organisations in receipt of state grants had to sign up as a broad legal condition not to use public money to 'influence' members of parliament, attempt to 'influence' legislation or regulatory action, or press for the renewal of grants. The clause did not apply to contracts, but my previous research shows that the use of 'gagging clauses' had by then become widespread and exerted a silencing effect, particularly on small organisations (Corcoran et al, 2017, 19-22).<sup>5</sup> That confrontation has metastasised in the current wave of visceral 'culture wars' designed to create wedge issues around legitimacy to intervene in public policy and discourse. It promotes polarisation which deflects from the appalling fallout from a decade of economic crises, drives NGOs by legal threats out of causes such as penal minimalism, corporate profiteering, tax justice, prisoner's rights, and restores a core concept of 'charity' as ultimately private endeavour, structured around patronage and philanthropy, which further funnelling authority back to a narcissistic autocratic government.

To conclude, the relationships between politics and civil society in the UK are at their lowest point for decades, as this governing class deploys antagonistic tactics and discourses with the purposive view to weaken opposition from civil society (while also privileging the role of right-wing research and policy institutes). This phenomenon highlights the diverse political and ideological spectrum of civil society across and acts as a warning against erroneously conflating 'civil society' with progressive or penal reformist movements only. As such, civil society is a barometer for resurgent de-democratising forces which are in open conflict with liberal democratic frameworks and norms, and which operate on a presumption of impunity, a process which John Pratt recently called a 'decivilising process'.

Exhausting and divisive as the current situation is for liberal and social democratic proponents, this de-civilising project is crystallising civically courageous pushback in recent months with strong collective responses from charities, scientific and medical councils, trade unions, legal activism which have had limited efficacy. Some hope can be vested in re-emerge of a new wave of strikingly radical critiques of criminal justice as people rally around end mass incarceration, disinvestment from penal expansion, and Black Lives Matter Lives, but they remain limited and amount to a strategy of attrition in the face of fragmented political opposition and a bullishly authoritarian government which is seemingly entrenched for the foreseeable future.

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<sup>5</sup> Corcoran, M., Williams, K., Prince, K., & M. Maguire (2017): The voluntary sector in criminal justice: a study of adaptation and resilience: summary of early findings. Keele University: Staffordshire.