

"Prison - Not Yet the Last Resort!"

Churches call for Alternatives for Prison.

Launch of Inter-Church Steering Committee on Prison Reform.

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CHURCHES CALL FOR ALTERNATIVES TO PRISON

On 19 April 1994 a publication of the Inter-Church Steering Committee on Prison Reform *Prison - Not Yet the Last Resort* was launched in Sydney. Speakers at the launch, which took place in the precincts of St Andrews Anglican Cathedral, included Bishop Bede Heather, Catholic Bishop of Parramatta, Archdeacon Geoff Huard, Anglican Archdeacon of Liverpool and representatives of the Uniting Church, the Salvation Army and other church organisations involved ministering to the NSW Corrective Services system.

Prominent lawyers who took part in the work of the Committee include Mr Peter Hidden QC and Mr Michael Adams QC and of the Sydney Bar. The report is accompanied by a six page summary targeted at politicians, judges, magistrates, the media, correctional authorities and others with hoped-for influence on the NSW correctional system. Amongst recommendations made by the Committee are:

- Support of a bipartisan approach to prison policy to remove "quick fix" pressures for higher punishment from the media;
- Call for review of the *Sentencing Act* and reconsideration of remissions for good conduct;
- Emphasis upon support by the prison system not more and longer deprivation of liberty;
- Increase in the provision of educational programmes for prisoners;
- Assistance by the Judicial Commission to judicial officers to make them more aware of the range of sentencing options other than imprisonment;
- Special attention to overcrowding and lack of humane visiting facilities for affected women prisoners, particularly those with children; and
- Introduction of urgent measures to reduce the number of Aboriginal Australians in prison.

Launching the report, the President of the NSW Court of Appeal, Justice Michael Kirby, drew attention to the historical origins of New South Wales as a prison settlement. He pointed to the historical tension between reformers and hard-liners. He said that when Governor Macquarie had decreed that emancipated prisoners were to receive a basic wage to provide for their dignity, he was assailed both in the colony and in London for his reforms. But in fact, he contributed notably to the success of the Australian settlement. Justice Kirby said that similar enlightenment was required in every generation.

The average prison numbers have risen in New South Wales from 4124 in 1988 to 6500 today. This was an increase of more than 50% in five years. In part, at least, the increase was attributable to the operation of the *Sentencing Act* which had abolished remissions and parole and substituted determinate sentences. The result was a rapid increase in the prison population. It had required the building of five new prison facilities, some of them to be run by private enterprise and some at a considerable distance from the family and friends of prisoners.

Justice Kirby pointed out that at current rates of increase, New South Wales would celebrate the Olympics with nearly 10,000 prisoners. This was extremely expensive both in emotional and social terms and also in sheer *per capita* costs. The judge drew attention to the imprisonment rates revealed in the inter-Church report. They showed an increase in the number of prisoners per 100,000 of the population from 90 (1983) to 147 (1993). Although levels of crime in the State had remained relatively stable, rates of imprisonment were growing significantly. New South Wales was now a high imprisoning community. In Victoria in 1991 the equivalent rate was 69.1. In Western Europe equivalent rates averaged between 40 and 50 prisoners per 100,000 of the population.

The report emphasises that judicial declarations that imprisonment is a last resort in criminal punishment, and even statutory instruction that this is to be so, must be measured against the harsh reality of a steadily growing prison population in the State. Increasing prison populations are a feature of the United States, the United

Kingdom and Australia in the past decade. They provide a stark contrast with the countries of Western Europe. In the last decade, for example, Germany has decreased its prison population by 12%. In the United States, where about 300 in every 100,000 of the population are imprisoned, the total numbers incarcerated are now approximating 1 million.

Justice Kirby drew attention to the three special groups referred to in the inter-Church review. They were:

- Women prisoners;
- Aboriginal prisoners; and
- The intellectually disabled.

The judge drew special attention to the serious over-crowding in women's prisons, the reported delays in securing gynaecological and other medical attention; the difficulties presented by children's visits and the need for better facilities for drug counselling.

So far as Aboriginal Australians were concerned, they were 18 times more likely to be incarcerated than other Australians. Within their own population the rate per 100,000 undergoing imprisonment was 1738. Justice Kirby said that it would be ironical if before 2000 this figure reached 1788. There was an urgent need to follow up the report of the Royal Commission on Aboriginal Deaths in Custody and to address the special problems of Aboriginal prisoners and the causes that led to their anti-social conduct and punishment.

So far as intellectually disabled prisoners were concerned, the review discloses that some 12% of prisoners in New South Wales fall into this class and need help with literacy support.

Justice Kirby said that he would add a fourth vulnerable group, namely drug using and drug dependent persons whose problems were often the root cause of much criminal conduct. He called attention to similar overseas investigations of

imprisonment, including the report by Lord Justice Woolf *Prison Disturbances* in England in 1991 and the more recent report by Adam Sampson *Does Prison Work?* published in Britain at the beginning of 1994. He congratulated the inter-Church Committee for focusing attention on the high level of imprisonment rates in New South Wales and the high costs involved. He said that the media had its own responsibility in presenting issues involving criminal justice. All too often prisons became the "whipping boy" of political debate in the media. Prison was required as the ultimate punishment, for many offenders. But there was an urgent need to provide effective alternatives to prison throughout the State and to reduce the unnecessary use of imprisonment where non-custodial alternatives would suffice.

Justice Kirby closed his speech at the launch of the inter-Church review by quoting the poem by Oscar Wilde in the *Ballad of Reading Gaol* (1898):

*"Every prison that men build
Is built with bricks of shame
And bound with bars lest Christ should see
How men their brothers maim."*

According to Justice Kirby, much remains to be done in the field of prison reform in New South Wales and in some respects, particularly in rates of imprisonment, things are getting worse.

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