

THE WAY FORWARD - A WORKING PAPER

1.1 We have given a fair degree of thought of late to the "way forward" at Maze Cellular and have identified two basic options- (a) which sets its sights on the reestablishment of control and (b) which seeks to justify the status quo. Informal discussions with the governor suggest that (a) is unrealistic. We are left therefore with a degree of uncertainty in the face of a fundamental and far-reaching challenge to our existing policy. This paper attempts to run over some of the ground, though not in any great depth, and suggests some directions we need to explore.

1.2 There is an interesting contrast between our immediate situation and that which has accompanied our main bursts of strategic thinking in the past. Instead of being a time of major crisis, our prisons- with the obvious exception of Magilligan- are arguably the quietest they have ever been in recent years. Why then should we be concerned? Basically because it seems our prison system has, as a direct result of paramilitary activity, undergone its most significant change since the ending of special category in 1976. The prisoners, through compelling us to accept their physical segregation, have forced a regime change the ramifications of which go very much further than the mere fact of physical separation in one part of one prison. The challenge to current Ministerial policy is of a dimension which requires us to continue examining very thoroughly the nature and adequacy of our response and to do so on a wide basis within the NIO.

Is Segregation Irrevocable ?

2.1 The most obvious question is of course -cannot we roll back the prisoners' success? The answer is in short - no. There seems no prospect of going back to full integration at Maze Cellular for the following reasons:-

- (i) We have little or no outside political support; both sides see "separation" as inherently sensible given the outside polarization. The facts of collusion and that prison is not a microcosm of the outside community count for little.
- (ii) The paramilitary reaction would be fierce, inside and out. As a Prison Department we could scarcely hope to resist the pressure which would be brought on us.
- (iii) The governor and his senior staff say it could not be done without major confrontation. They would therefore be most unwilling to embark on a course which in any case they do not see as sustainable in the long term.
- (iv) Whatever some may say, prison staff would not support us and as the likely recipients of much of the violence would be made more bitter and resentful. The consequences of our inevitable retreat would be still more damaging.
- (v) Ministers' political plans are scarcely compatible with a certain confrontation of our making and on grounds which we have found presentationally hard to put across.

2.2 The future regimes at Maze must therefore take into account a division by accommodation into (a) hard-line loyalists (b) hard-line republicans, and (c) a still unstable mixture of the questionably less committed and the "others". This loss of the ability to

decide in what way a prisoner's location will overall be determined marks a watershed, and what is more, one which has now been crossed.

### What Is The Importance of Segregation ?

3.1 There are a number of inherent features and consequential developments which bear out the critical importance of segregation.

(i) It is the basic characteristic of a special category regime, so much so that it did not even make the status of one of the "Five Demands", though added to them in the course of the second hunger strike. Having failed to regain special category through head-on conflict, the prisoners correctly assessed segregation - previously seen as a consequence of special category - as a suitable basis on which much of it could be restored.

(ii) It is the first major gain by the paramilitaries which allows them to distinguish themselves from other prisoners. Whatever we do now, these groups are already geographically distinct and differentiated. They will have no difficulty in construing this enforced separation as official recognition of "difference" which, by extension, is "political".

(iii) It gives territorial control. Establishment of territory - and preferably unique and unhindered access to it - is the aim of any organised paramilitary group. It gives a physical basis to the control exercised by the command structure. It also delineates an area as "belonging" to the prisoners from which the aim is to exclude staff psychologically, if not physically.

(iv) It allows for direct development - that is we will soon have punishment exclusions which we cannot easily resist. Others will wish to "join" from mixed wings and certainly direct from the committal wing (if indeed we persist in having a meaningful committal wing). A further stage is the separation of individual organisations; this is perhaps easier to resist in the absence of a feud outside, but having conceded the basic principle would the prisoners see us as likely to resist if they provide determined opposition?

3.2 There is also a wider scope for development and expansion.

(i) Staff are likely to be ever more intensively manipulated/ cajoled/ terrorised into allowing "free-er" association - that is the cell doors open and the maximum number of prisoners able to congregate as and when they please. The pressure will be constant - 365 days a year - and though we can and must oppose it there will be a significant degree of success for the organisations. We know from direct and indirect evidence that at times in certain blocks the prisoners so pressurise staff, or the latter collude, that even now this kind of situation prevails.

(ii) Work is one of the easiest areas for the prisoners to beat us. Groups of prisoners who are really determined not to work cannot realistically be made to do so. Most of those segregated are at present "unemployed". They have in the past, and through various means

will again, reduce any attempt to make them work to a patent shambles. We do not in turn accept that many of them are other than an unnecessary security and control risk in the workshops. ( At this point the loyalists and republicans may part company ; the former may be prepared to work, but not with republicans we can be sure! ) As the prisoners will be unemployed ,and are clever enough to avoid punishment for it, we will be pressed into allowing increased education. It is hard to justify "idleness" when there is a presentationally good and apparently harmless substitute for it- education. With unemployment this becomes effectively a full-time substitute for work and will take place within the segregated territory of the block. This is because even if we do not significantly increase day-time education we will presumably not take books out of the cells during the day. That would be a propaganda gift for the opposition- but it allows the achievement of full-time education.

(iii) Not only does the acceptance of segregation at Maze Cellular have major implications for that establishment , but it also gives a major propogative drive to campaigns elsewhere. We are already seeing the intensification of the segregation drive at Magilligan in which the expressed aim is achievement of the Maze pattern .Though we have had a good degree of success up to now,if the Magilligan prisoners are prepared to go to the lengths they have threatened,can we realistically hold off segregation from them? It will also apply, in the prisoners' minds at least , to Maghaberry Male whether we like it or not . Similarly there may well be feedback to Belfast where,if the prisoners were to drop their current preoccupation with supergrassess and escape, they could force a final split there. Could we then expect to hold out at Armagh where ( at a cost in terms of staff threats) we have maintained a firm line? Only the YOC would seem likely to remain unscathed.

#### The Five Demands In Retrospect

4. At Maze Cellular how do these look three years on ?
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| (1) Own clothing   | granted   |
| (2) a.No prison work and the right to<br>b.full-time education | a.granted de facto at present<br>b.not granted but within reach |
| (3) Free association   | not granted but staff under constant pressure                   |
| (4) Letters, visits , parcels                                  | granted though no longer relevant                               |
| (5) Restoration of remission<br>and the later extra demand     | $\frac{1}{2}$ granted   |
| (6) Segregation  | granted de facto  |

This is a sobering checklist to those who fought the good fight "from '76 -'81 . In a year's time, say, it seems likely that further progress-from the prisoners' point of view- will have been made on work , education , and association. Indeed they are already hinting that a few regime relaxations would help keep things sweet- just as any restrictions will be fiercely resisted . An obvious conclusion to be drawn is that the writing is very firmly

on the wall for our defence of the criminalisation policy as we have known it in the prison context. Since this has been a cornerstone of the NIO anti-terrorist effort for almost 10 years, there are implications well beyond Prisons Department.

#### Options Discussed and Available

5.1 That segregation has been forced on us and is highly undesirable goes without saying. The traditional prison response to such a development is to punish the prisoners one way or another. Our first attempts to define a regime (or regimes) for segregated prisoners contained as high a punishment element as was possible without adjudication (we assume that both sets of prisoners will be too clever to be caught again in an overt punishment cycle). The more this has been examined however the thinner such a policy has seemed. This lowering of expectations has a number of origins.

- (i) We have, over time, been unable to sustain punishments which can be presented as petty.
- (ii) Our retreat from previously-held positions is, rightly or wrongly, seen by staff as fundamental weakness and a readiness to throw away any sacrifices they may make
- (iii) Some would argue that we are merely to keep prisoners in custody and that we should aim at a system that keeps them as happy as is consistent with secure custody. According to this view, control of the paramilitary may not be attainable and will not be achievable by punishments.
- (iv) Sinn Fein will be looking for an issue to bolster its fortunes. A punishment regime could improve these rather rapidly.

If our expectations that we can do much against these prisoners with any coherent policy result in view has diminished, perhaps in the broader NIO context we also need to take a steer as to how far we, as part of an overall effort should be doing so.

5.2 Our most recent reviews of the field have been based on the following main criteria -

- (i) Segregation is here to stay and cannot realistically be diminished;
- (ii) There is little place for a punishment element in any new regime;
- (iii) So far as possible we should not set out to create a conflict with the prisoners;
- (iv) Any restrictions on regime should be based on the clear grounds of security and control;
- (v) We should aim at a regime which helps - or at least does not worsen - staff morale and curtails paramilitary dominance in the wings;
- (vi) Though work remains a central feature of our integrated regime, realities at Maze suggest that our previous industry-centred approach is not viable on economic, control or security grounds;
- (vii) We should do as much as possible by way of favouring the regime in the mixed wings.

5.3 The criteria mentioned do not all point one way, nor are they all necessarily compatible with each other. Within this framework we have come up with two options, between

which there is a range of intermediate positions -

(a) A true controlled regime;

(b) An acceptance of the present position with only a few differences.

(a) is favoured by the Operations side ( in Mr Kerr's absence ) and in principle by the governor. We have now concluded that it need involve no punishment but should seek to limit numbers of segregated prisoners out of cells at all possible times. Exercise, association, use of the dining room, education would all have controlled numbers. All movement would be controlled. Prisoners would eat in cells. Only at Mass would any large numbers be allowed to congregate. Work in industries would not in practice be a major part of such a regime though it would continue. Prisoners would, so far as possible, be restricted to the blocks and within these to their wings. This is a consistent approach and justifiable on obvious security and control grounds. Being "real" it will be strongly resisted by the paramilitaries. Unfortunately the governor advises us informally that in his judgement such a regime cannot be sustained however desirable it may seem. With the block staff he has and their weak supervisors he believes that staff will ultimately give in - no matter what may be said by the POA about backing up the officer in the wing. The collective power of the prisoners in constant daily contact with the staff would, as it has done in the past, prove too strong for the latter. In any case, based on previous experience, the governor questions whether the NIO would in circumstances of renewed conflict be prepared to persevere with the policy. His views have been discussed with and are shared by his senior management team.

(b) can have almost any format we like since it is not a true active option. It has as its principal aim the avoidance of unnecessary conflict of our making. It would become formalised but there would be no announcement - it would just happen. Any restrictions would again be justified on grounds of security and control - for example more frequent searches or moves. Greater emphasis would be placed on providing positive incentives for the "mixed" people.

#### The Way Forward

6.1 The pros and cons of the two options are fairly obvious. Option (a) is robust, coherent, theoretically boosts staff control and results in a less attractive segregated regime; it should increase both security and control in the blocks. As stated above unfortunately it will not work in practice. There is no stomach within the prison for a fight and many believe that there is little backbone in the NIO either. Option (b) - which as presently articulated is patently thin has the advantage of limiting inmate response in the immediate future. Having won a large advance, there is no doubt that they are satisfied with the present interim position. The loyalists are probably almost content and with some recreational activity could be entirely so. The republicans will see the full scenario discussed above as becoming steadily more achievable, but it is arguable that they are unlikely to launch into violent opposition if they see we have now acquiesced in segregation without penalty. ( This could change however if the "hard-line" faction were to become ascendant. ) Restrictions outside the blocks, for example to workshops, would probably

please this group. Staff would in practice find the unconfontational approach more congenial in the short term no matter what accusations of NIO sellout were made for presentational purposes . The price of this is high however . It does nothing obvious in terms of Hennessy to encourage staff morale or increase real control over the prisoners. It makes it more difficult to provide any good incentive for full conformity in a mixed wing. It shares with (a) the recognition that a degree of special category has been restored- only so far as the command structure is concerned it has few "negative" aspects...

6.2 It seems that we are being steered towards some form of option (b). What we now need to examine includes :-

- 1 How widely within the Prison Service, Prison Department, and the NIO is the analysis presented here accepted and the inevitability of its conclusion? If not, are there other options?
- 2 Do we need a further steer from PUS/Ministers as to the political framework within which we have to proceed?
- 3 What measures can we take, in discussion with the governor of Maze & more widely
  - i to improve the mixed option,
  - ii to identify the regime for segregated prisoners & particularly what changes if any from the regime obtaining now,
  - iii to define the place of work and education in the segregated regime,
  - iv to confirm the mechanisms for entering or leaving the segregated wings,
  - v to establish how we can set about restoring staff morale- or at least giving them better direction/supervision-in the context of a segregated regime,
  - vi to establish what we consider to be a control level which can be attained and which governors will be expected to reach.

We also need

- 4 to consider what we do about Magilligan;
- 5 to examine how our policy should be presented to staff, prisoners and the general public, particularly within the context of the criminalisation policy;
- 6 to cost the new regime(s) in staff and money terms.

6.3 This paper could act as a basis for wider discussions but in the meantime is being kept within Prisons Department.

*A. K. Templeton*

A. K. TEMPLETON  
Prison Information Unit  
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- Copies to -
- Mr Palmer
  - Mr Kerr (ola) / *Mr. Hildebrand*
  - Mr Jackson
  - Miss Simmons
  - Mr Ginn (ola)
  - Mr Semple
  - Mr D Mc Neill
  - Mr S. Mc Neill
  - Mr Brown
  - Mrs Hildebrand
  - Mr M Wilson (ola)