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# A Critical Note

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## Remote Access Communities\*

Dans son récent rapport sur le Système pénitentiaire du Canada, le Comité MacGuigan\*\* a exprimé un renouveau d'intérêt pour l'idée ancienne de l'éloignement de la collectivité pénale. Dans son article, l'auteur soumet cette notion à une appréciation critique du point de vue de la théorie pénale ordinaire et radicale et il soutient qu'elle n'est acceptable ni à l'une ni à l'autre théorie.

### *Critical Perspectives*

There are several social functions which imprisonment can perform. Some of these are legitimate in some circumstances, while others are illegitimate in any circumstances. The "circumstances" to which I refer are primarily those determining the moral nature of the social order for which imprisonment must inevitably operate, whatever else it does, as a coercive reinforcement. If the social order is unjust, then it matters not how "progressive" its penal system might appear considered independently, because it does not exist independently. In such circumstances, the task of the critic is partly (the part which is relevant here) to be on guard for attempts to strengthen or make more effective the system of oppression, and to expose such attempts so that they might be mobilized against and thwarted.

Even where the social order is just, there are limits on the extent to which it may be enforced through coercive means such as imprisonment. These limits are the subject matter of that ancient and expansive body of discourse known as the "philosophy of punishment". It is always part of the task of the critic to ensure by his or her criticism that these limits are respected.

It is not my intention to discuss here either the question of the fundamental justice or injustice of the Canadian social order, or of the precise limits of a just social order's right to punish. The space it would require to resolve these controversies would leave little if anything for the subject at hand. Consequently, I propose to look at "remote access communities" from

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\* This article is a slightly revised version of an address delivered to the Ontario Corrections and Criminology Association Conference held at Toronto on September 24, 1976.

\*\* Comité permanent de la justice et des affaires juridiques des Communes, Sous-comité du Système pénitentiaire du Canada, *Troisième Rapport* (1977), par. 720-9.

each of the critical perspectives which I've just outlined, i.e., just and unjust social order, in turn.

Furthermore, I propose to adopt for the purposes of this discussion the "theory of punishment" most widely accepted among modern philosophers which is that for punishment to be legitimate it must both be deserved and the least drastic method of achieving some tangible social benefit.

### *Remote Access Communities*

Professor Parker has been good enough to provide us with three models of remote access communities on which to concentrate our attention (see Appendix): the "classic" penal colony, the mixed pioneer village, and the youth camp. Apart from remote locale, these three models have one very important thing in common: prisoners are coerced into living there.

Coercion comes in various shades, of which the "classic" penal colony is only the most vivid. When refusal of an "invitation" entails a prison sentence or a denial of parole, this too is coercion. It is also coercion when a refusal to "bound out" to learn life skills in the North with the same enthusiasm as the rest of the kids indicates a need for further "rehabilitation"

It is not any lack of ingenuity on Professor Parker's part that is responsible for the absence from this list of any really voluntary remote access community. It is simply the fact that nobody would volunteer.

What then is the appeal of this coerced remoteness? What is to be gained over more conventional forms of incarceration? As I said earlier, imprisonment serves many social functions. Of those bandied about since its advent as a punishment, the most prominent have been deterrence, incapacitation, and rehabilitation. How do remote access communities fare on these scores?

### *Deterrence*

Part of the reason we fear imprisonment is the enforced isolation from our family, friends, and the familiar things of life which imprisonment entails. This can be mitigated to some extent by visits and access to the media (as consumers) and various goods, services, and amenities, all of which vary, however, in their ability to mitigate isolation with the degree to which the prison is physically remote from the setting or type of setting in which the prisoner ordinarily lives his or her life. Most prisoners, like most people, come from urban environments. In fact, *almost everybody* comes from non-remote environments. Consequently, one can expect that the inevitable fall-off in visits, amenities, and the quality and variety of goods and services, indeed, the change in climate, will, apart from the material deprivations involved, enhance the sense of isolation for most prisoners, and that this will be experienced as unpleasant.

We may conclude from this that insofar as deterrence is enhanced by increased severity of punishment (and there is some empirical support for

this), remote access communities could well have some added deterrent value over conventional imprisonment.

This is probably as good a place as any to mention a use which prison administrators would undoubtedly make of remote access communities, if present practices are any indication. The phenomenon of the "disciplinary transfer" is by now familiar, and one can expect the uncooperative prisoner of the future to be transferred to remote access communities for activities which cannot be proved, or if they can, do not constitute breaches of the rules.

### *Incapacitation*

Probably the most popular justification among judges, members of parole boards, and other government officials for long prison sentences is "the protection of the public" by which phrase is generally meant the physical restraint from criminal depredation which is so much more obvious a consequence of imprisonment than is deterrence. As far as the outsider is concerned the only hitch in all this is the possibility of escape, the attractiveness of which, we may assume, increases with the length of sentence. A great part of the appeal, therefore, of remote access communities must be that the more remote the prison, the more pointless or harmless is escape. The successful escaper will either perish in the wilderness or, at worst, bother some Eskimo or Indian or member of some other politically cloutless group.

### *Rehabilitation*

There is a nineteenth century ring to the thoughts that come to mind when one searches for some distinctive rehabilitative aspect of remote access communities. We are all sufficiently imbued with Quakeristic and Lombrosian mythology to find initially plausible the attribution of a significant part of criminality to the wicked, serpentine influences of city life where criminal companions, idleness, and vicious habits combine to corrupt the essential health of the body and purity of the soul. What could be more rehabilitating for all of us, *a fortiori* the criminals, than an ascetic existence in a healthful environment where we could do nothing but build our bodies and wash clean our minds in purifying outdoor labour and contemplation?

So much for a trip to Fantasyland. Back here on earth the notion that coerced rehabilitation, at least of the "positive" sort (i.e., the transformation of "a criminal" into a "a law-abiding citizen"), is a realistic goal has been sufficiently debunked in recent years that we need not spend much time on it. Most crime is rational given the material and social circumstances of most criminals. These circumstances cannot be changed by anything that is going to be done to a person in a remote access community. The small part of crime which can only be attributed to individual pathology is not the sort of thing that will be cured by cutting down trees or drilling through tundra in the wilderness.

The less utopian rehabilitative goal seems to me to be the "negative" one which Rupert Cross calls "the prevention of prisoners' deterioration".<sup>p.85</sup> Whether remote access communities would achieve this more successfully than conventional prisons depends on which is inherently less disruptive and degrading. Though degradation is gratuitous in either setting, it seems obvious that remote access communities are, *ceteris paribus*, more disruptive than conventional prisons.

### *Exploitation of Prisoners' Labour Power*

I have saved for the last what has probably been the strongest appeal of remote access communities, namely the opportunities they would provide (and have provided where they have been adopted) for government and private enterprise to have done cheaply through forced labour what free labour is reluctant to do except for very high wages: the "development" of all that unexploited land in Canada's North.

Free Canadians do not seem to have that old pioneer spirit any more. They want others to be the pioneers for them. Immigrants cannot, unfortunately, be relied upon not to filter back into the urban centres after having been assigned to more remote communities. Only prisoners can be trusted to stay put even in the most unpleasant of places. Furthermore, most people still believe in the legitimacy of forced labour in prisons, whether as a hangover from the days of purely punitive labour, or from the days when the felon only lived by the King's grace so that it was natural that he or she be made to earn his or her keep. So long as this view persists, governments, industrialists, and patriotic Canadians will continue to nurture dreams of inexpensive Northern Development.

### *Critique*

To summarize then, the claim of remote access communities to superiority over conventional prisons rests on enhanced deterrence and incapacitation (i.e., reduced crime) and on the exploitation of cheap labour power for Northern Development.

Now even if we assume that these ends are legitimate ones on a just social order hypothesis (and further assume that the land to be developed does not belong to someone else, e.g., a conquered indigenous people) that does not necessarily entail that these means be adopted. For one thing, the costs may outweigh the benefits, to use a modern cliché. For another, there may be a less painful way of achieving the same thing. In neither case would remote access communities be "the least drastic method of achieving a tangible social benefit".

Take enhanced deterrence. Given the diminishing returns which are bound to set in as prison sentences get longer, the difference in suffering between (say) a ten-year prison sentence in a conventional setting with visits and urban amenities on the one hand, and the same length sentence in a remote access community on the other, might not be at all reflected in

reduced criminality, or might be reflected to such a slight extent that the excess suffering would overwhelm it.

As for forced labour, it is to my mind doubtful whether the significant increment in suffering which it represents over loss of liberty *simpliciter* is warranted by any enhanced deterrent effect or defrayment of costs. The payment of market wages to prisoners would be likely to have little if any effect on the level of criminality and would only slightly increase the general tax burden. Of course, if remote access prisoners had to be paid the same wages which it would take to attract free labour to remote access communities, there would not be much chance of any getting off the ground.

Naturally the above issues are, in principle, capable of being resolved by empirical research.

### *The Radical Perspective*

So far we have been looking at remote access communities on the hypothesis that the social order in which they are intended to operate is fundamentally just. Not, it might be thought, that the critic starting from the opposite premise would simply seek to achieve the reverse of the system's aims, that is would seek to diminish deterrence, rehabilitation, etc. This would be a mistake. For though crime may be, as Marx wrote, "the struggle of the single individual against the dominant conditions"<sup>p.232</sup> it does not follow, even when these conditions are fundamentally unjust, that every crime is a progressive political act.

In the *Politics of Abolition*, Thomas Mathieson's thoroughly remarkable study of the Norwegian prison pressure group, KROM, four "social functions of imprisonment" are outlined<sup>pp.76-8</sup> which have great importance for an analysis of remote access communities. They are not concerned with the directly coercive functions of deterrence and incapacitation but with the isolation of prisoners from the outside world. Mathieson uses them to explain the official resistance met by the founders of KROM in their attempts to establish organizational links with prisoners.

The first function is the "expurgatory" function. The prison system seeks to isolate the "unproductive" members of society created by the "productive" system in order that, on the one hand, the efficiency of the "productive" system is not interfered with and, on the other, society is not reminded of the inadequacies of a system which continues to turn out such "unproductive" members.

The second function is the "power-draining" function. By isolating prisoners from those who would be their allies, the prisoners are kept in a relatively weak position.

Third is the "diverting" function. The more isolated the prisoners are, the more their dangerousness can be exaggerated and the more society's attention is diverted from the really dangerous elements within it, e.g., the industrial polluters, the corporate defrauders and the capitalist exploiters.

Fourth and finally is the "symbolic" function. This is closely related to the "diverting" function, but in this instance attention is diverted from our own essential moral similarity with the prisoners in order to prevent us from acting on our natural compassion.

By intensifying the natural isolation entailed by imprisonment, remote access communities serve all these social functions very well. As long as prisoners are out of sight and out of mind, questions about the nature of the social system which produces them will be kept to the absolute minimum occasioned by the crimes themselves. The farther prisoners are from "civilization", the fewer will be the hunger strikes, work stoppages, writs and charges against the government, because the more difficult will it be for sympathizers to make and keep contact with prisoners. The farther prisoners are removed, the more their evil can be exaggerated and society's ills blamed upon them.

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### Appendix

#### *Three Models of Remote Access Communities*

1. A "classic" penal colony (for first, young, habitual or dangerous offenders) which was truly remote from transportation and "Civilization" Its further description and feasibility is what the discussion will be about.
2. A community which was a mixed one aimed at northern development. Perhaps it could be a homesteading community to which law-abiding citizens and convicted criminals would be invited to go with their spouses and families.
3. A remote access community could be a life-skills-type program or an Outward Bound-type program which would be better suited to young persons. The community would not necessarily be remote but could work in co-operation with some pre-existing northern community.

There are a few historical precedents. Most of the older ones are in category 1 — e.g., Siberia, Australia, Devil's Island but at least two of these led to the development of a large piece of new territory. There have been some attempts at 3; the best known in Canada have been the forestry camps in British Columbia. There have been Outward Bound camps in Ontario.