

Scottish Universities Insight Institute

Progressing Scottish Justice and the problem of "others"

15 March 2016

Imprisonment in Scotland: towards a penological post-modernism?¹

Introduction

The grandiose title is not intended to be pompous. It is an attempt to track conventional penal theories against the trajectory of Scottish criminal justice. Writing in 1990, David Garland identified what he called “a crisis of penological modernism”². He explained that:

“ever since the development of prisons in the early nineteenth century, ... there has been an implicit claim – and eventually a public expectation – that the task of punishing and controlling deviants could be handled in a positive way by technical apparatus. It seems ... that this basic claim has now been put in question”³.

This was a call to re-think our conventional notions of punishment. Important and interesting though it is, philosophical theorising will be left to others. Suffice to say, it is now widely recognised that short prison sentences have limited effect as punishment. It is thus heartening that recent Government policy has sought to deal with all but the more serious offenders by way of community payback and to address the underlying social and economic causes of criminal behaviour. As the Justice Minister recently wrote:

“...it is implicit within our proposals to strengthen the presumption against ineffective short-term sentences and for female offenders and, indeed, for our wider penal policy

¹ I would like to thank my law clerk, Lisa Kinroy, for the preparation of, and research for, the drafting of this paper.

² Garland, *Punishment and Modern Society: A Study in Social Theory*, (1990), p. 7.

³ *Ibid.*

and community justice reforms, that we want to see a shift in resources from prisons to community-based disposals and alternative models”⁴.

Scotland’s prison population

With a prison population rate of 147 prisoners per 100,000 population, Scotland is in the top third of European countries with the highest prison populations⁵. It lies equal to Romania, but trails well behind Balkan states such as Kosovo, Slovenia and Bosnia and Herzegovina (both with 73)⁶. No doubt, there are other factors involved in this simplistic comparison. The numbers imprisoned in Scotland have increased year on year from almost 6,000⁷ in 2000 to almost 8,000⁸ in 2014, an increase of about one third⁹. Putting that into context, the Netherlands and Scandinavian countries generally have the lowest numbers, with populations of between 69 (the Netherlands) and 55 (Sweden)¹⁰. Those low figures are not achieved by chance or by accident. They are the result of sustained and concerted penal, socio-economic and welfare polices implemented over decades.

The Scottish Prisons Commission was convened in September 2007 to consider the uses of imprisonment and how they dovetail with broader social and economic policies. The Commission¹¹ identified that the priority had to be keeping the public safe from serious,

⁴ Correspondence from Minister for Community Safety and Legal Affairs to Justice Committee, 29 October 2015, p. 6.

⁵ http://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=14

⁶ *Ibid.*

⁷ 5,869.

⁸ 7,859.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Report of the Scottish Prisons Commission, *Scotland’s Choice*, July 2008.

violent criminals, but that current uses of imprisonment were making this difficult¹². The problem was that the prisons were filled with too many on short sentences, where there was no real prospect of achieving punishment, rehabilitation or deterrence¹³. The Commission made a series of recommendations aimed at driving down the numbers on the basis that an ever increasing prison population would only encourage reoffending. It advocated re-thinking theories of punishment so that: first, prison should be reserved for those people whose offences are so serious that no other form of punishment is appropriate, and for those who pose a threat of serious harm to the public; and secondly, Scotland would move beyond its reliance on imprisonment as a means of punishment in favour of a default system of paying back to the community when dealing with less serious offenders¹⁴.

The Government published its Strategy for Justice in 2012. It adopted many of the recommendations of the Commission including a commitment to reduce reoffending. The initiatives include: changes to the structure of the community justice system; work to address the underlying causes of criminal behaviour; reforms to the laws around disclosure of criminal history; a presumption against short term sentences; and increased use of community sentences. Some of these are now law.

Scotland's female prison population deserves separate consideration. Scotland is again within the top third of European countries with the highest populations of women offenders¹⁵. The Justice Secretary has described this as "totally unacceptable"¹⁶. Following

¹² *Ibid*, p. 1.

¹³ *Ibid*.

¹⁴ *Ibid*, paras. 3.1 – 3.7.

¹⁵ http://www.prisonstudies.org/highest-to-lowest/female-prisoners?field_region_taxonomy_tid=14&=Apply

¹⁶ <http://news.scotland.gov.uk/News/Women-in-custody-move-to-Polmont-227b.aspx>.

consultation, the Government published plans for a form of “community custody” backed by targeted support to address the underlying issues and action to reduce the numbers of women receiving custodial sentences¹⁷.

Cornton Vale is to be renovated as a new small 80-place national prison. There are to be 5 smaller community-based units with 20 places each housing women closer to their families. The success of the strategy remains to be seen. However, with over 90% of the women who are admitted to prison having been in custody before, a more targeted approach, directed at the underlying causes of offending, is certainly to be welcomed.

Young offenders also require special attention. Some success has been achieved. Happily, the numbers of young offenders have been in steady decline for a number of years. Remarkably, the rate of conviction for men aged between 16 and 20 fell from 9,500 convictions per 100,000 men in 1989 to just over 2,700 in 2012¹⁸. Conviction rates have also fallen for young women¹⁹. The policy of diverting children away from prosecution in all but the most serious of cases would appear to be working.

Bail, remand and time limits

All crimes are bailable²⁰. Bail ought to be granted except where there is a good reason for refusing it²¹. However, where a person appears on petition accused of a violent or sexual offence and has a previous solemn conviction for a violent or sexual offence, bail will be

¹⁷ Liddell Thomson, *Consultation Report: The Future of the Female Custodial Estate*, June 2015.

¹⁸ The Scottish Government, *Evaluation of the Whole System Approach to Young People who Offend in Scotland*, April 2015, para. 2.2.

¹⁹ *Ibid.*

²⁰ Criminal Procedure (Scotland) Act 1995, s. 24.

²¹ *Ibid.*, s. 23B(1).

granted only if there are exceptional circumstances²². A similar provision applies in respect of drug trafficking²³.

Since the 18th century, the Crown has been required to charge an accused and bring him to trial within strict time limits²⁴. The original requirement was for an indictment to be served within 60 days and the trial to conclude within 40 days thereafter²⁵. The 100-day rule subsisted in much the same form for 3 centuries, albeit the periods were extended to 80 and 110 days, respectively²⁶. Now, a High Court indictment must call at a Preliminary Hearing within 110 days and, in theory, a trial must commence within 140 days²⁷. The time limits may, and almost always are, extended “on cause shown”²⁸. Where the accused is at liberty, an indictment must be served within 10 months; a Preliminary Hearing must commence within 11 months; and trial must commence within 12 months. These time limits may also, and are, extended “on cause shown”²⁹.

The difficulty is that, assuming the Crown do not serve an indictment until the end of the 80-day or 10-month periods, which is normally the case, the court is left with effectively only 30 days within which to fix and commence the trial. This is well-nigh impossible. The tight window is not solely a problem for the court’s timetabling; it also presents difficulties for the diaries of solicitors and counsel and, no doubt, witnesses. An accused may be faced

²² *Ibid*, s. 23D(2)

²³ *Ibid*, s.23D(3).

²⁴ Act anent Wrongous Imprisonment 1701.

²⁵ Alison, *Practice of the Criminal Law in Scotland*, (1833) at p.182, citing Hume, *Commentaries on the Law of Scotland*, ii, p.98.

²⁶ Criminal Procedure (Scotland) Act 1887, s. ; Criminal Procedure (Scotland) Act 1975, s. 101.

²⁷ Criminal Procedure (Scotland) Act 1995, s. 65.

²⁸ *Ibid*, s. 65(5).

²⁹ *Ibid*, s. 65(8).

with a choice between a last-minute change of representation and waiting for a much later date in the hope of securing the representation of his choice.

In 2014/15, only 1% of High Court cases did not require some form of extension. The average period between Preliminary Hearing and commencement of trial was 16 and not 4 weeks. It has recently been increasing because of the blocking effect of 2 exceptionally long trials. It is anticipated that similar statistics will begin to apply to sheriff court solemn cases once the Bowen reforms, contained in the Criminal Justice (Scotland) Act 2016, are brought into force. This has implications for the remand population. At present in the sheriff court, but not the High Court, there is a tendency on the part of the Crown to liberate accused persons when a trial diet is aborted. This ought not to be the pattern in the future.

As at 26 February 2016, 1440 prisoners (18.7% of the total) were held on remand³⁰. That is a significant numerical increase from 951 in 2000. In its report of 2008, the Scottish Prisons Commission pointed out that between 21% and 47% of remand prisoners do not end up serving prison sentences³¹, although the reality is that the court will have taken into account the period on remand in selecting the ultimate penalty.

Non-Custodial Disposals

Fines represent the majority (53%) of all court disposals³². Community sentences, notably the Community Payback Order, represent the second most common disposal. They

³⁰ <http://www.prisonstudies.org/country/united-kingdom-scotland>

³¹ Report of the Scottish Prisons Commission, *Scotland's Choice*, July 2008, para. 3.15.

³² The Scottish Government, *Criminal Proceedings in Scotland, 2014-15*, para. 7.

account for 17%³³. This is a higher proportion than 10 years ago³⁴. Those on CPOs carried out more than 1.3 million hours of unpaid work in the community. The Cabinet Secretary for Justice has said:

“Short sentences do little to reduce reoffending in our communities. Community sentences help to reduce reoffending by supporting the underlying causes of offending and ensure people pay back for the harm their crimes have caused with hard work in the community ... This isn’t about being “soft” or “tough”, it is about being “smart” and acting on the clear evidence in front of us”³⁵.

The court has other options, notably: Drug Treatment and Testing Orders³⁶, imposed in respect of 538 offenders in 2014/15; or Restriction of Liberty Orders requiring a person to remain within his home at times specified³⁷. RLOs made up 6% of community sentences.

Short Term Sentences

At 13% (or 13,977), custodial sentences were the third most imposed sanction³⁸. However, the numbers of custodial sentences have generally declined from a peak of almost 17,000 in 2008/9³⁹. The court’s powers to impose a custodial sentence are subject to a number of legislative restrictions. There is a statutory minimum of 15 days⁴⁰. Where an accused has not previously been sentenced to imprisonment, the court may not jail him unless it considers

³³ The Scottish Government, Criminal Proceedings in Scotland, 2014-15, para. 10; 18,519 numerically.

³⁴ *Ibid.*

³⁵ <http://news.scotland.gov.uk/News/Paying-back-to-society-2237.aspx>.

³⁶ 1995 Act, s.234B.

³⁷ 1995 Act, s.245A.

³⁸ The Scottish Government, Criminal Proceedings in Scotland, 2014-15, para. 8.

³⁹ *Ibid.*

⁴⁰ 1995 Act, s. 206. The period was extended from five days by s. 16 of the Criminal Justice and Licensing (Scotland) Act 2010.

that no other method of dealing with him is appropriate⁴¹. There is a presumption against sentences of imprisonment for three months or less⁴². Although custodial sentences of less than three months have declined considerably, from 53% in 2005/06, they still account for 29% of the total⁴³. Sentences of 3 to 6 months account for a further 26%⁴⁴. The balance comprises 13% in respect of sentences of between 6 months to 2 years and only 7% in respect of sentences of over two years⁴⁵.

In 2015, the Government consulted on proposals to extend the presumption against short sentences, either by extending the period or providing that certain offences should not attract custody⁴⁶. The rationale for the presumption derives from the Scottish Prison Commission report⁴⁷, which recommended that:

“... imprisonment should be reserved for people whose offences are so serious no other form of punishment will do and for those who pose a threat of serious harm to the public....”.

Short prison sentences are generally ineffective in rehabilitating offenders or reducing the risk of their reoffending. Individuals released from a custodial sentence of 6 months or less are reconvicted more than twice as often as those who have completed a CPO⁴⁸. The reason for this may be that community sentences provide more opportunities to address the underlying

⁴¹ 1995 Act, s.204(2).

⁴² 1995 Act, s. 204(3A), inserted by the Criminal Justice and Licensing (Scotland) Act 2010, s. 17. The Scottish Ministers have power to vary the number of months specified in subsection (3A) by statutory instrument, which must be laid before and approved by Parliament (subs.(3D)).

⁴³ The Scottish Government, Criminal Proceedings in Scotland, 2014-15, para. 8.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ Scottish Government Consultation on Proposals to Strengthen the Presumption against Short Periods of Imprisonment (September 2015).

⁴⁷ *Scotland's Choice*, Report of The Scottish Prison Commission (July 2008).

⁴⁸ Scottish Government Consultation on Proposals to Strengthen the Presumption against Short Periods of Imprisonment (September 2015), p. 7, para. 2.

causes of offending, although there are other factors. Rather than reducing reoffending, imprisonment can drive long term recidivism by weakening social bonds and decreasing job stability⁴⁹. High and ever increasing prison populations are not in anyone's best interests. The initiatives to reduce the numbers serving short term sentences seem welcome.

The support of sheriffs to any lengthening of the presumption against short term sentences will be important. Statistics demonstrate that the 3-month period is already altering sentencing practices. There is a concern that the legislation fails to address the problem of the repeat offender and the recidivist who will not comply with court orders. Short terms of imprisonment are seen as an appropriate means of enforcement in that context. The answer to that is that sheriffs may require to be more imaginative in their approach to offenders, many of whom struggle with simple aspects of life quite apart from having to deal with the requirements of a CPO.

There is also a need to escape from the traditional notion that sentencing involves an ever increasing level of punishment for repeat offenders. That is often an over-reaction to the problem. On the other hand, as some might say, sometimes the communities require a degree of respite from certain individuals. That too is no doubt a valid point. It can, however, be met with an equally valid retort that, if true, the respite ought to be meaningful and not a temporary breather.

⁴⁹ *Ibid*, p.7, para. 3.

Long Term Sentences

At the other end of the spectrum, there has undoubtedly been an increase in the length of punishment parts in murder cases, which totalled only 31 last year. The curiosity here is that the punishment part, being the minimum period to be spent in custody before an application for parole can be made, was introduced because it was thought, no doubt correctly, that indeterminate custodial sentences would fall foul of human rights considerations. However, unintended consequences followed; influenced by what was then common press reporting of the punishment part as the sentence. However erroneous that may have been, there was pressure on the courts to increase this minimum term; and increase it did.

There were formal court decisions on the subject, which increased the effective minimum in knife cases from 12 to 16 years⁵⁰ and far beyond that where aggravating factors were present. Now, in extreme cases of serious sexual violence involving murder, punishment parts have been fixed at 35 years or more. Those in excess of 20 years are not unusual. As I said recently in a case involving the premeditated and brutal murder, by a complete stranger high on alcohol and drugs, of a woman aged 51 by stabbing her 37 times in her own home and trying to kill her octogenarian partner:

"There are some crimes which so plumb the depths of depravity, even in a man so young as the appellant [he was 19] that only a very substantial punishment part can be seen as appropriate to reflect the elements of punishment and deterrence."⁵¹

⁵⁰ *Boyle v HM Advocate* 2010 JC 66, see also *Jakovlev v HM Advocate* 2011 SCCR 608.

⁵¹ *McManus v HM Advocate* 2015 SCL 639 (26 years) cf *Telford v HM Advocate* 2015 SCL 136 (20 years reduced from 25).

There has then been a major change in the lengths of time those convicted of murder will be kept in custody. It may be that it has as much as doubled over the last few decades. Because of public attitudes to this type of crime, it is unlikely that there will be any significant decrease in punishment part levels. Indeed, if anything, the pressure may be to increase punishment parts yet further. Efforts have been made to introduce the life without parole example from the United States and the whole of life tariff from England.

A second change in the sentencing regime in the High Court is the introduction of the Order for Lifelong Restriction, where the offence is such as to demonstrate that the offender, if at liberty, will seriously endanger the lives, or physical or psychological well-being of the public. The judges have, to a degree, had different views on just what might demonstrate that the risk criteria are met. Some were more readily disposed to impose an OLR, albeit with a short punishment part, than others. The appellate court has tried to impose a degree of restraint in this field, especially when young offenders are involved⁵². It is, after all, only where the offender is reasonably thought to be beyond the realms of rehabilitation that this penalty should normally be contemplated.

The statistics are stark. From the many OLRs which have been imposed since their introduction in 2006⁵³, only 2 offenders have been released. It appears that, in relation to almost all of the offenders subject to an OLR, the Parole Board consider that, as the judge will already have found, they continue to pose a serious risk to public safety. This type of risk based sentencing may be welcome. It provides an additional component to the range of sentences open to the judge. It is a step beyond the short term sentence supervised release

⁵² *Ferguson v HM Advocate* 2014 SCCR 244; *Kinloch v HM Advocate* 2015 SLT 876.

⁵³ Criminal Justice (Scotland) Act 2003 amending the Criminal Procedure (Scotland) Act 1995.

order and the long term prisoner's extended sentence. The latter is also to be used where there is a serious risk of public harm, but usually where rehabilitation, maturity or reform remain in prospect.

The impression which is left in relation to custody is that sentences for many serious offences, although not for all, are increasing. The draconian levels, previously encountered for relatively minor drug supplying, may have dropped. Those for serious sexual and violent offending have increased and again this is unlikely to change. The type of offending, and offender, may do so. Almost 80% of the trials now proceeding in the High Court involve sexual offences; many domestic in nature. Those convicted of what can be multiple rapes on successive partners receive very substantial prison sentences. This cohort of prisoners may differ from the norm which was in place even in the recent past. They are often in denial and they have offended against their own families.

Automatic Release

This upward trend of periods in custody for serious offenders will be accompanied by the effects of the Prisoners (Control of Release) (Scotland) Act 2015 which amends the provisions for the release of long-term prisoners; ie a person who is serving a sentence of 4 years or more. Under the previous regime, the Parole Board could release long-term prisoners on licence at the mid-way point in their sentences. After having served two-thirds of the sentence, they required to be released⁵⁴. The 2015 Act brings about the end of this system of automatic early release. It will now be restricted to the final 6 months of the

⁵⁴ Prisoners and Criminal Proceedings (Scotland) Act 1993, s. 1(2).

sentence. A minimum 6-month period of supervision in the community will thus be required for all long-term prisoners leaving custody. This measure may be seen as meeting public expectations, since offenders may now require to serve almost the full sentences imposed upon them unless the Board determines otherwise. It will, however, prevent the “cold release” of long-term prisoners and will allow a longer period of access to support and rehabilitation services in custody.

That release can be brought forward by up to 2 days if it would be better for the prisoner to be released on an earlier day. Release should take place on a day on which essential services are accessible and available. That recognition is thrown into sharp relief when it is known that between 9,000 and 10,000 individuals serving short term sentences leave custody every year⁵⁵. It is a pragmatic and appropriate development and one which is to be welcomed.

Scottish Sentencing Council

The Scottish Sentencing Council⁵⁶ was established in October 2015 under The Criminal Justice and Licensing (Scotland) Act 2010⁵⁷. Sentencing guidelines have been a feature of English procedure for some time. The Scottish courts are occasionally invited to have regard to them. The High Court has a power to issue guideline judgments in appropriate cases⁵⁸. It has not often used it. The Sentencing Council is charged with promoting consistency in

⁵⁵ The Scottish Government, *The Report of the Ministerial Group on Offender Reintegration*, September 2015, para. 8.

⁵⁶ *Scotland's Choice*, Report of The Scottish Prison Commission (July 2008), para. 3.17.

⁵⁷ Criminal Justice and Licensing (Scotland) Act 2010, s. 1.

⁵⁸ 1995 Act, s. 197.

sentencing, assisting the development of sentencing policy and promoting greater awareness and understanding in sentencing practice and policy⁵⁹. It will prepare sentencing guidelines for approval by the High Court, following consultation with The Scottish Ministers and the Lord Advocate⁶⁰. Once approved, the court must have regard to any sentencing guidelines⁶¹. The guidelines will not have binding status. A court may decline to follow them but it must state its reason for doing so⁶². The Council has only just been established. It will be interesting to monitor its progress. One immediate issue for the Council will be setting its starting point. Should it target specific offences or offenders? Time will tell. In my brief chairmanship of the Council as Lord Justice Clerk, I had suggested looking first at the general principles of sentencing and those applicable to women and young offenders, rather than engaging in an exercise of selecting gridline penalties. This approach may, or may not, be followed.

The Community Justice (Scotland) Act

The Community Justice (Scotland) Act is intended to meet calls in the reports by the Commission on Women Offenders and Audit Scotland to take a more strategic approach to planning, designing and delivering services to reduce offending. It represents another initiative for addressing sentencing in the community and strengthening the services available to offenders as part of the Government's policy to reduce offending. The 8 regional community justice authorities will be replaced by a new national body, Community Justice

⁵⁹ *Ibid*, s. 2.

⁶⁰ *Ibid*, ss. 3, 4 and 5.

⁶¹ *Ibid*, s. 6.

⁶² *Ibid*.

Scotland, and by local community justice partners. The intention behind the Act is to provide leadership at both national and local level, clear lines of governance and accountability, a national strategy, and a national performance framework. “Community justice” involves: (a) giving effect to bail conditions, community disposals and post-release control requirements; (b) managing and supporting offenders in the community with a view to them not offending in future; (c) arranging relevant general services in ways which facilitate access by offenders; and (d) preparing persons in custody for release. “General services” includes services relating to housing, employment, education, children, physical or mental health, social welfare and any other matter which does or may affect the likelihood of future offending.

The Act supports the Government’s commitment to significant reform of penal policy in Scotland, aimed at reducing reoffending and moving away from ineffective short term sentences in favour of more effective community sentences. It lays the groundwork for a new decentralised model which supports increased use of community sentences, a reduction in short prison sentences and improved prospects for offenders to return to their communities. Various different views have been expressed in relation to the Act. Time again will tell if it proves a success or a failure.

Rehabilitation of Offenders

Currently, under the Rehabilitation of Offenders Act 1974, a person who has been convicted and sentenced to prison for less than 2½ years can be regarded as “rehabilitated” after a specified period. After the rehabilitation period has passed, the original conviction is “spent”. Anyone receiving a custodial sentence exceeding 30 months is never rehabilitated

and the obligation to disclose a conviction continues for life⁶³. The Government consulted on proposals to reform the 1974 Act in 2015⁶⁴. The primary focus was a proposed increased in the maximum sentence for rehabilitation. There was overwhelming support (89%) for extending it beyond 30 months⁶⁵. The Government recommended 48 months, reflecting earlier amendments by the UK Government to the law applying in England and Wales⁶⁶. The UK Government had originally recommend that all sentences, other than life sentences, should have a rehabilitation period but, in the event, chose only to increase the rehabilitation period for custodial sentences of 48 months⁶⁷. The Government concluded that the same approach was appropriate for Scotland, since 48 months marks the point at which an offender becomes a long-term prisoner. The extension of the period of sentences susceptible to rehabilitation must be welcomed. Allowing someone to leave their criminal history behind is important.⁶⁸ Although the Government has power to make the proposed amendments by way of secondary legislation⁶⁹, amending legislation has not yet been advanced.

⁶³ Rehabilitation of Offenders Act 1974, s. 5.

⁶⁴ Scottish Government, *Rehabilitation of Offenders Act 1974 – Consultation Paper*, 2015.

⁶⁵ The Scottish Government, *Consultation on the Rehabilitation of Offenders Act 1974: An Analysis of Responses*, 2015, para. 3.3.

⁶⁶ The Scottish Government, *Rehabilitation of Offenders Act 1974 – Consultation Paper*, May 2015, para. 1.9; Legal Aid, Sentencing and Punishment of Offenders Act 2012, s. 139.

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*, para. 2.1.34; Rehabilitation of Offenders Act 1974, s. 5(2) (England and Wales).

⁶⁹ Rehabilitation of Offenders Act 1984, s. 5(11).

Conclusion

Scotland's prison population is high. It has grown steadily over a number of years and represents one of the highest in northern Europe. This is not desirable for prisoners or for the nation as a whole, both socially and economically. The majority of Scotland's prison population comprises offenders serving short term sentences. A substantial proportion of those who serve short term prison sentences will reoffend. A significant proportion of prisoners have previously served custodial sentences.

The prison population comes largely from the most deprived and troubled sections of our society. Much improvement is needed, but it is difficult to achieve rapid substantial societal change. The Government's initiatives to reduce the short term prison population in favour of community sentences are to be welcomed. They represent a shift in approach to the use of imprisonment. Time (and patience) is what is needed for these policies to be allowed to work. The low prison populations of Scandinavia, to which we should surely aspire, have been achieved over years of sustained and concerted policies, with imprisonment being reserved only for the most serious offences or offenders. The policies will require adjustment and response over time but, in essence, they should be sustained and maintained. That is what I meant with my reference to penological post-modernism.

LORD CARLOWAY
Lord Justice General
15 March 2016