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The Politics of Punishment: A critical analysis of prisons in America

Warren Richmond

Legal Aid Society's Prisoners Rights project

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BOOKS REVIEWED

A Public Citizen's Action Manual. By Donald K. Ross. New York: Grossman Publishers 1973. Pp. 237. \$1.95 Paper.

The intended audience of *A Public Citizen's Action Manual*¹ is stated in the title—citizens. But the book is also an important document for the harried practitioner. Legal Aid and OEO lawyers alone have not brought about all the recent changes on consumer, environmental and equal protection issues. Reinforcing their efforts have been a growing body of lawyers involved in part-time “Pro-Bono” work. Evidencing this effort is the ABA monthly newsletter, “Pro Bono Report” describing the work of these lawyers and firms.

One of the guiding principles of Mr. Ross' book is that court action should be used only as a last resort. With this theory in mind the concerned lawyer reads the book and visualizes himself in an advisory capacity to a citizens' action movement, while still carrying on his general or specialized practice. Probably every lawyer has been approached by and felt sympathy for a wronged citizen and then turned away, with a tinge of guilt, compelled by the duties of his daily practice. This book offers some alternatives.

A Public Citizen's Action Manual by Donald K. Ross, a Nader associate, encourages the citizen-reader to know the truth about various systems in our government and society—even where the truth hurts. For instance, we learn that ambulance service is generally not provided by hospitals, but rather by undertakers as well as firemen and volunteer organizations. If this small fact were more widely publicized citizens would think more than twice about phoning the New York City emergency number. This book, however, offers the reader more than the bleak trivia about why one should be watchful of the questionable smile on the face of your neighborly ambulance driver. It is a manual replete with positive information which can be used by the action oriented citizen to improve the quality of life. The manual has no sympathy for the “you-can't-fight-city-hall” syndrome, commonly found in the contemporary urban dweller. Mr. Ross urges us to buck-up, to fight, to become public interest advocates, to free our lives of the dangers and drudgery unfairly imposed by special economic interests at the expense

1. D. ROSS, A PUBLIC CITIZEN'S ACTION MANUAL 106 (1973).

of the general public welfare. Once a citizen accepts and assumes a reform posture there are all sorts of changes that can be wrought.

The reader can take heart that he is not alone in his battle to re-do what needs re-doing. There are innumerable groups throughout the country which are already entrenched in the task of citizen reform. Their names and addresses are included in appropriate places throughout the book. Some of the offices that are listed by Mr. Ross as resources for citizens are large governmental bureaucracies which have an uninspiring reputation for acknowledging citizens' letters with only form replies. However, for the most part, the groups and projects listed appear able to provide the inquiring citizen with specific advice, and in some instances practical assistance. As an example, in the section dealing with better health care, we are advised that it is possible for workers to do something about on-the-job noise which might constitute a health and occupational hazard. The author lists the name and address of a group in Washington, D.C. which runs a clearinghouse for volunteer audiologists throughout the country² who could be consulted about a noise problem and who also might come to the place of employment to inspect the noise level and advise workers. There you are—well on the way to solving a problem, without litigation, which previously might have been accepted as a condition about which workers could do nothing.

The introduction, by Ralph Nader, sets forth the theme of the book by explaining that institutions of government and business are too large and too distant from the people that they are supposed to be serving.³ The premise of Nader and Ross is that with a little help and interest from citizen-activists, government and business can be made to respond to the needs and safety of the public. The book generally outlines the areas which need citizen attention: consumer frauds, the automobile industry, banking and loans, health care and health plans, sex and racial discrimination, tax, and government in general. For each of these areas the manual explains a general approach which a group of citizens can take to expose and correct a problem. Mr. Ross looks at the problem of citizen organization as a step-by-step process. This is a realistic method because one who is

2. *Id.* at 96.

3. *Id.* at vii.

aware that something should be done is often stymied by the immensity of the task and unsure where to begin. Here, the practitioner's advice, derived from his experience, training and knowledge would be invaluable to the citizen's group. The book's practical approach and detailed advice has a soothing effect on prospective activists and convinces them that if they keep their wits and proceed in an orderly fashion they have a good chance of accomplishing change. We are advised on how to gather a group of concerned citizens; what type of office facilities are needed; how to gather initial data through questionnaires, phone inquiries, letters, or comparative pricing; how to compile the data and statistics; how to make it available to the appropriate legislators; and even how to arrange and conduct public hearings. All this is explained in a most general fashion, but perhaps the generality is the best means of winning converts to the theory that a good citizen is a concerned one. Pessimism will not be tolerated. Change can be accomplished only if an organized effort is implemented and, as professed by Mr. Nader in his introduction, "[s]ometimes one or two individuals are enough" to make a significant difference.⁴

A Public Citizen's Action Manual constantly nudges the reader to take up the cudgels and change the world—or at least stop the corner grocer from overpricing the canned peas. It is an important message and one which, if repeated enough, may be heeded.

*Lisa H. Blitman**

4. *Id.* at xiii.

* Ms. Blitman is a member of the New York and Washington, D.C. bars. She is presently an attorney for the Legal Aid Society and formerly worked for MFY Legal Services and the New York City Human Rights Commission.

The Politics of Punishment: A Critical Analysis of Prisons in America. By Erik Olin Wright. New York: Harper and Row, 1973. Pp. 349. \$3.75 Paper.

Since the Attica rebellion and the killings at San Quentin in the late summer of 1971, the problem of prisons and prison reform in this country has become the subject of much discussion and study. For the most part, such attention has been focused on the legacy of neglect which has resulted in the intolerable conditions in our nation's prisons, the lack of any viable rehabilitative programs and the high recidivism rates. It has been repeatedly suggested that it is in society's best interest to invest substantial resources to develop prisons as rehabilitation centers and not as factories of crime, so that ex-prisoners will return to society as useful citizens. This is considered a large step towards true law and order.

Erik Olin Wright¹ does not subscribe to the view that the problems of our prisons are simply the result of society's benign neglect. In *The Politics of Punishment*, he sets forth in a remarkably clear fashion why crime and prisons will remain fundamentally the same until a radical change in the society itself is made.

Wright views the level of crime in American society as substantially the result of what he terms "political choices." In other words, although the state does not desire a high level of crime, it chooses certain courses of action which make this pattern of crime inevitable. In his analysis, our social structure has created grave economic problems for members of lower class and minority groups in this country, and has provided them with a severely limited number of legal options with which to attempt to solve these problems. To use the author's example, "the ghetto black rarely has the option of getting a job that pays well or of taking out a mortgage on a home."² From this perspective then, the decision to commit a crime (to choose the "illegal option") does not come about as a result of some emotional disorder, but instead is a rational response by an individual to problems which he or she faces.

Continuing this analysis, Wright examines the way in which so-

1. Mr. Wright is a doctoral student in sociology at the University of California at Berkeley.

2. E. WRIGHT, *THE POLITICS OF PUNISHMENT: A CRITICAL ANALYSIS OF PRISONS IN AMERICA* 8 (1973).

cial structure also influences the type of crime which an individual commits, and the penalties which are imposed. Poor people, he notes, do not have access to "circumspect property crimes"³ such as tax fraud, securities fraud, and embezzlement, which are non-violent and generally difficult to detect. Instead, they are much more likely to confront their victim thereby increasing the probability of violence. As statistics make clear, the individual who is convicted of such a crime, as robbery or burglary, is far more likely to receive a prison sentence than the perpetrator of a white collar crime, even though white collar crime is far more costly to society in terms of economic loss.

Wright's analysis of the nature of crime in this country sets the stage for his discussion of the prison system. Having established who goes to prison, and why, he concludes that prisons do not exist to deter criminal activity per se, but rather to deter only that criminal activity which threatens the chosen social structure. Since the author rejects the notion that crime is the result of emotional disturbance, he suggests that "rehabilitation" is simply a means of compelling conformity.

Drawing from his experiences as a student chaplain at San Quentin, and from numerous interviews and informal conversations with both prisoners and prison officials, Wright develops more than adequate support for his observations. He notes that for prison officials, the two basic functions of prisons, custody and rehabilitation, are hardly separate and distinct. Indeed, custody is the primary concern and the various rehabilitative programs—the honor block, the conjugal visiting programs, the gradation of prisons from minimum to maximum security—serve to epitomize this preoccupation. Every prisoner is well aware that his prospects of obtaining and keeping such privileges depend in large part on his ability to maintain a clean disciplinary record. As a result, these privileges are used to compel conformity. If a prisoner adversely responds to the harrassment of correction officers, espouses militant political beliefs, or even refuses to shave his moustache, he is likely to receive disciplinary reports. Thus, in order to receive privileges, he must in many cases sacrifice his individuality and self respect. The author quotes George Jackson describing a similar phenomenon which exists in

3. *Id.* at 10.

regard to the Parole Board:

An individual leaves his individuality and any pride he may have behind these walls No one walks into the board room with his head up. This just isn't done! Guys lie to each other, but if a man gets a parole from this prison . . . it means that he crawled into that room. . . . No black will leave this place if he has any violence in his past until they see that thing in his eyes. And you can't fake it, resignation—defeat, it must be stamped clearly across the face.⁴

This constant struggle between the prisoner's desire to maintain a sense of self versus the administrative desire for control and conformity exists as the basic conflict in modern prisons, and Wright conveys it well. Perhaps the real tragedy of the prison system is that more often than not, prisoners lose the struggle and return to society bitter and without self respect. The economic problems which they face are almost always more severe and the "legal options" at their disposal almost always more limited. It is this utter hopelessness of their situation that leads Wright to express surprise that the recidivism rate is as "low" as 40 to 60 percent within five years of release.⁵

While the author does not foresee any change in the nature of our prison system in the near future, he does believe that there is some hope for creating better prison conditions. The conditions which presently exist are the result of societal neglect, and for the most part could be remedied by legislative and judicial action. Here, too, however, there are substantial obstacles. Prisoners have no political power, and thus legislators are likely to give prison reform low priority. In New York State, for example, despite the tragedy of Attica, there has been no major reform legislation in this area. Although the judiciary has recently become involved in prisons, such reform is by nature limited and extremely difficult to enforce. Yet, as Wright suggests, prison reform litigation can serve to increase the public awareness of what goes on inside prison walls.

The viewpoint which Wright offers in this book is not unique, but he presents his position in an extremely thoughtful and cogent manner. Although he has not presented the reader with any viable solutions to the prison problem, that, unfortunately, is not his shortcoming but rather the nature of the beast.

In addition to the material by Wright, *The Politics of Punishment*

4. *Id.* at 130, quoting G. JACKSON, SOLEDAD BROTHER 196 (1970).

5. *Id.* at 325 n.10.

also contains several selections by individuals involved in the prison reform movement in California. While these selections generally lack the insight of Wright's material, they provide such valuable information about the inner workings of the California system.

The criminal justice system in this country places thousands of men and women in penal institutions each year. Despite this fact, the legal profession knows far too little about what prisons are and how they operate. This book provides an important perspective on the institutions which constitute the end result of that system.

**Warren Richmond*

* Warren Richmond is a staff attorney with the Legal Aid Society's Prisoners Rights project.