ON PRISONS:

Why do we punish those who break the law?

While there is perhaps a general agreement that criminals should be punished, we have still not come to terms with a more basic question: why should they be punished? The prevailing view among those members of the community interested in such questions is that the purpose of punishment is to retribution for the crime. Yet the high cost of punishment in this regard. There are probably two reasons for this. First, the prison community provides an inmate with contact with more experienced convicts and provides him with greater "know-how" upon release. Second, the conditions prevalent in the prisons are likely to cause general alienation and hostility so that a released prisoner is more, not less, likely to commit anti-social acts upon his release.

It would probably be helpful to examine what some thinkers of the past have said about this question. While this essay certainly does not pretend to be a detailed history of penal theory, it might prove enlightening to know that problems that we often find so difficult to deal with have been points of controversy in the past and by now, the least, are not new questions.

Most penal theories can be divided into one or more of the following categories: retribution, rehabilitation, vengeance, and deterrence. Yet, what all civilized societies have in common is the elimination of the legitimacy of private vengeance. If a person is wronged, the society will punish the wrongdoer. Probably the first written criminal laws were contained in the Code of Hammurabi (circa 1750 B.C.). The punishments listed here were harsh but limited according to the crime. Thus a man who destroyed a window should lose his eye. A man who struck his father would lose his fingers. However, some 350 years before this, under King Ur-Nammu of Sumeria, there was a system of restitution and monetary fines rather than the infliction of pain for punishment of wrongdoers, a true concern for the victim since he would be made whole for his loss.

Plato wrote that no man should be punished because he did wrong because his wrong could never be undone. Punishment was necessary so that other members of the community would learn to hate injustice at least abate their instincts for evil doing. The so-called retributionist school, exemplified by Kant and Hegel theorized that the punishment for crime was a right in itself. Its purpose was not deterrence or reformation. A crime upset the moral order, and a balance could only be struck when the criminal is punished by his being made to suffer. Thus punishment is a categorical imperative required by a higher law.

According to law. Karl Menninger, Nietzsche's view was: "Along with the stone, we cast our own souls onto the criminal. In this way we relieve our own sense of guilt without having to suffer the punishment—avenient and even pleasant device for the soul. We relieve us of our sin but makes us feel actually virtuous.

This effect, is an attempt to prevent anomic, a sense of rootlessness and purposelessness that develops when traditional boundaries and values deteriorate. If crime is wrong, we must reaffirm the sense of wrongness by punishing the criminal. It is the punishment that tells us that the act is wrong. It tells us that our values are still intact. Most modern thought is probably most influenced by utilitarian theories. Of this school of thought, Bentham was the most influential regarding crime and punishment. To Bentham, punishment was only justified when it tended to exclude a greater evil, and its sole function was to deter others from doing the same. Only those who voluntarily broke the law should be punished since the aim of such punishment is to prevent willful crimes. He wrote extensively concerning the circumstances such as insatiably ples and other states of mind that might vitiate punishment. Yet it has been pointed out that this is a contradiction from the purely utilitarian viewpoint. Since punishment of all wrongdoers would tend to prevent others from similar acts, why not also punish those who committed crimes without total willful intent? Would not punishing the insane have a deterrent effect on all potential perpetrators? Bentham was apparently tempering what would be a strictly utilitarian position with a humanitarian concern about punishment those who did not understand the consequences of their acts. As stated by Professor H.L.A. Hart: "First, actual punishment of those who act unintentionally or in some other normally excusing manner may have a utilitarian value in its effects on others; and secondly, when because of this probability, strict liability is admitted and the normal excuses are excluded, this may be done with the sense that some other principle has been overridden." Enlightened voices in the United States in the nineteenth century called for reform of criminals as the aim of the penal system. For example, the American Correctional Association.

The case of Ralph G.

When a poor man becomes a defendant in the Criminal Justice System, his future is largely dependent on those few individuals who participate in the processing of his case. And most of the time, his lawyer. This is particularly true of the man with no family, no friends, and little or no education. Such a man is Ralph G. Unfortunately for Mr. G., the one man who might have helped him—his lawyer, Mr. S.—failed him totally. And Mr. S.'s failure has cost Mr. G. almost two years of his life.

Ralph G., age 30, has been enmeshed in the web of the Criminal Justice System since his arrest on November 7, 1970. He was arraigned on two counts of homicide before the Bronx County Criminal Court on November 8, 1970, and indicted in the Supreme Court on December 29, 1970. He is charged with the murder of two friends who died as a result of falls from the window of his apartment.

It is now almost two years since Mr. G., a Puerto Rican descent, with no history of drugs or alcohol and no previous criminal convictions. His education took him through the tenth grade. Before his arrest in 1970 he worked for 11 years as a messenger for Western Union and as a taxi driver in the City.

His troubles began to surface in 1966. In that year Mr. G.'s wife, whom he had married two years earlier, left him and took their two-year-old son to live with her mother. Because of this Mr. G. suffered a mental collapse and was hospitalized after attempting to commit suicide by taking an overdose of pills. Shortly thereafter, Mr. G. was arrested for the first time in the Bronx on a sodomy charge, of which he was later acquitted. By 1969, he had been arrested again and charged with rape and third degree robbery. These charges were dismissed in 1970, when the complaining witnesses failed to appear in court.

Today Mr. G. stands accused of the murder of Jone P., his friend and neighbor, whose body dropped to the pavement from the window of Mr. G.'s apartment on October 9, 1970. Mr. P. was 40 years old. Mr. G. had known him about two years. Although Mr. P. smoked marijuana, he did not use hard drugs; however, he was a heavy drinker and an epileptic. Mr. G. says he is when Mr. P. died and does not know anything about the circumstances surrounding Mr. P.'s death but speculates that Mr. P. was probably intoxicated when he died.

Mr. G. is also charged with the murder of one of his girlfriends, who similarly fell, jumped, or was pushed from his apartment window 17 days after Mr. P., on October 26, 1970. Mr. G. says he had lived with him since October 3, 1970, that she was a heavy drug user and prostitute, and a lesbian, and that he was trying to help her. Mr. G. adds that she

(Continued on page 2)
Watergate, etc

Here at Fordham, we are not concerned with goodness and rightness. doorstep of the nenness. All we care about is who will stand in court and speak for us.

Dean McLaughlin at an address to incoming freshmen in September, 1971.

To whom, if not to the lawyer, may we look for guidance in solving the problems of a sorely stricken social order? Justice Harlan F. Stone, 1934.

In light of the Watergate scandal with so many of its principals being lawyers, including at least two Fordham graduates, perhaps it is time to reevaluate the attitude of the Dean, that those with similar thoughts concerning the responsibilities of lawyers. Isn't time we ask, "Is it ethical?, or "How will this serve the needs of our society?"

Because we have a legal background, supposed perception of human behavior and society's workings, we have an obligation as lawyers to deal with all the consequences of our actions. We must not excuse all our behavior because it is in the interest of our clients. This attitude perpetuates some of the worst ills of our society. Sometimes we can go all the way to ignore acts of inhumanity.

The one thing that impressed me about the system of justice is how much bullshit is really involved. From whom you know right down to the actual plea bargaining, which was a joke. When I was being questioned, the judge and the lawyer said that the deceased was a cop. The judge could have said let me go home. He said he hoped I un- derstood my responsibilities. He said the deceased had four brothers and it wouldn't have ended. So the police, "You know, how about 3 years?" The judge said, "Sorry, I'm standing here and I'm thinking, I don't f- believe this, they're talking about 3 years? That's a pissing bug." Finally, they said, "About 4 years?" and that was it.

ADVOCATE: Tell me about your commitments.
MEEHAN: The good parts, the bad parts.
ADVOCATE: Sum it up.
MEEHAN: Prison is the most opposite environment I can imagine. There's no way of knowing if you're going to maintain a continuity of emptiness. And you try to fill it in the most stupid or repetitious ways. You see men chasing balls around the court yard. They've nothing to get excited about, they could sleep at night. I was reading a book a day. The only good day that was after a speed reading course. Not much, though. Mrs. Black's books. ADVOCATE: How did you find guards?
MEEHAN: FOR the most part, just as human as I am. Some of them even more so. In the two years I was away, I found one lieutenant who was a real prizefighter who said that he was a考虑ed. He was taking college courses in criminal psychology. He took me aside and gave me a pile of books. I had just finished with since he was taking courses himself. He said I must have read the books. My complaint was being considered for a position. I was a fly almost, killing was my bag, either. ADVOCATE: Tell me about race relations in prison.
MEEHAN: Race relations in prison are almost non-existent, except when they concern hate crimes. 'The worst axes' of ulterior motives, like dealing for favors, looking to nail somebody, making somebody a kid. ADVOCATE: Where were you held?
MEEHAN: Auburn, Sing-Sing, Sing-Sing, a club, a minimum security prison. I was a library and a librarian. Judge said, "You're rehabilitated." ADVOCATE: What do you think about the rehabilitation process in prisons? MEEHAN: Anyone who is going to be rehabilitated rehabilitates himself. If there's any rehabilitation that exists now doesn't do a thing toward rehabilitation. Prisons aren't meant to be rehabilitative places. They are meant to be inhumane and destructive places. They serve a function that they were designed to do: incarcerate. To keep them out of society.

ADVOCATE: What do you think about the Rehabilitation and Parole Board?
MEEHAN: I think it will happen again. I think we should separate first offenders from hardened criminals. In this way we would have a more effective prison system. Out and out hardened criminals could be executed or put away for life. This might sound strange, but in the way things are, I think this is the only logical way.

As for Atta, I would have tried not to participate. I just want to get out. I heard about the brutality and the isolation and the inhuman becomes so holy. But at the same time I resent the fact that so many of my friends and I cannot preach on our will, I can empathize with them, I can't go back to society and go off the wall. So my feelings about Atta are ambivalent. ADVOCATE: Do you have any final thoughts?
MEEHAN: I need for employment after release is one of the convicts' greatest concerns. I was lucky. I started a job of a month after getting out, but for the others it's a problem. The stigma of prison prevails, and I think one of the reasons the stigma ought to be removed as far as possible.

"Radical lawyers" reviewed

Perhaps it is indicative of the times that the reports of executions in Chile have stirred so little outrage. In fact, on the New York Times front page 2-8 the word "humanitarian" was often used in stories about the Sandinist massacre after killing a man be found guilty of murdering a vice. Sentenced to 4 years, he did six months at Auburn and Sing-Sing. Sing-Sing. Sing-Sing, a minimum of the right side of prison authorities and still helping all. At Walkill, I had no complaints with the prison authorities. I had no complaints with the prison authorities. They were designed to do.
A work release program was instituted in the Nassau County Jail in 1969 and has accommodated two hundred and twenty-three inmate participants. The theory of the program is: "The incarceration of an offender is not merely punishment, but rather a furthering of a learning process whereby he is helped to become a useful member of society, capable of contributing to that society and accepting its own responsibilities."

"A work release program in a jail must register its disapproval of a particular inmate's misconduct and, with the privilege of leaving confinement to be gainfully employed, take vocational training or attend an educational program. In the absence of the malevolent, male prisoners, it provides for release from confinement during necessary and reasonable hours to care for family."

This program is authorized under the Correction Law of the State of New York and its officials consider the advantages of this program to be the cornerstone for institutional rehabilitation by giving the prisoners on Work-Release privileges the opportunity to redeem their portion of their earnings to support their family for its support, helping to maintain stability and conformity in the rehabilitation of the prisoner. Work-release prisoners are housed separately from the general prison population to give them reasons both of security and inmate morale. Plans have been approved for the construction of modular dormitory type buildings to be used in the housing of Work-Release inmates. This is being funded by a grant of $600,000 from the state of New York, for temporary enforcement assistance. 

Punish lawbreakers....

Yet it is no solution to the puzzling problem of human equations. Many people in our world simply deny lawyers their rights, feel that they enjoy it often and can escape it never. It is up to us, it should be noted also that many of these younger people have their own personal desires for notoriety. They are, in their writings, in their protests and demonstrations, who fill their lifestyle-one which has already been forged by psychological forces, many of which will never be known to the individual. But in this respect, we all stand equal.

To those of you still trying to keep your minds open to all sides of the coin, the book is good for you. It is a book like the ancient bible, between the door and the jamb, went "crazy" a few days before her death and he believes she may have jumped from the window, not knowing what she was doing.

The police questioned Mr. G. after each of the deaths and Mr. G. was called, 'the Assistant District Attorney said he could not be confronted with the act because, as far as he knew, the lawyer had a "good reputation." The victim, because of his association with G., may have incurred prior to his incarceration. Mr. G.'s counsel is not subject to the power of the court. The case was called, ' the Assistant District Attorney, the case was not heard because Mr. G. did not appear or was not ready. Mr. G. was called, ' Mr. G. is the fact that he was not tained on the case of Clifford Irving in November 2, when it was charged that he was the instigator of the death of his second assistant, Ralph G., in August 1928. On that date the Judge was a failure to the victim; as far as he knew, the lawyer had a "good reputation." The victim, because of his association with G., may have incurred prior to his incarceration. The case was called, ' the Assistant District Attorney, the case was not heard because Mr. G. did not appear or was not ready. Mr. G. is the fact that he was not tained on the case of Clifford Irving in November 2, when it was charged that he was the instigator of the death of his second assistant, Ralph G., in August 1928. On that date the Judge was a failure to the victim; as far as he knew, the lawyer had a "good reputation." The victim, because of his association with G., may have incurred prior to his incarceration. The case was called, ' the Assistant District Attorney, the case was not heard because Mr. G. did not appear or was not ready. Ralph G. is a man who has been sentenced to prison for his part in the scandal of Clifford Irving.

Punish lawbreakers....

Yet, Chief Justice Taft could have had no sympathy with the power of the court. The purpose of the prosecution: of crime is to punish the criminal and to deter others from doing the same thing because of penal consequences. A man of huge proportion to lead criminals by pandering them, and by relaxing discipline of the inmates and the harshness of prison life, to think that this was the state of the court, entertainment and support. The various functions of government have been combined in common—the attempt to maintain stability and conform in the social order. An administrative theory is incomplete; rehabilitation of the parolee does rehabit and the crime rates seem to indicate that prisoners do not know more crime. We are not concerned with those who have served their time. Some of them were revealed. Perhaps, De Durkheim, the sociologist, comes closest to the truth about the "normal" purposes of punishment. He said that formal punishment of offenders cannot be explained by any of the functions ascribed to it. It is rather a cultural affirmation of the values of the society, values which have been diminished by the challenge of crime. To punish for murder is not to instill fear in the hearts of the criminals, but to reafirm the society's belief in the sanctity of the law and institutions are serving our purposes. In the past, it is because we are not certain about what we expect to accomplish in the future and all must restore the victim; as far as he knew, the lawyer had a "good reputation." The victim, because of his association with G., may have incurred prior to his incarceration. The case was called, ' the Assistant District Attorney, the case was not heard because Mr. G. did not appear or was not ready. Ralph G. is a man who has been sentenced to prison for his part in the scandal of Clifford Irving.

Postscript....

On February 2, 1973, Ralph G. was acquitted of the charges against him. It was his second trial; the first ended in hung jury on December 22, 1973.
Letters

"A View from the inside" WHAT IS THE IN- STI TUTION'S ROLE AS A PLACE FOR REHABILITA- TION FOR WOMEN? WHAT SKILLS DOES IT HAVE TO OFFER? HOW WILL IT HELP THE INMATE FOR THE SOCIETY THAT SHE WILL ENTER ONCE SHE IS FREE? WHAT WAYS DOES IT TEACH SELF AWARENESS?

This institution was designed as a place for punishment. A woman has to house her own substantial rate of race, creed or color, who rebels against us. This is a capitalist society in which we live, and as a result of that, they are being punished inside the jail. On the average they are stripped of all identity that they can intimately relate to as being an animal of higher learning. Sure there is a school to attend, but what they don't teach in the school is how to be civil towards each other. And outside the school they are so busy trying to keep you unaware of what's going on that there is very little concern for the general health and welfare of the women they house.

Rehabilitation, in the sense of the word is the biggest farce to be found on the New York island. The Emancipation Proclamation. I ask you, what is this good for? To go into the subject of rehabilitation for women who have a common criminal procedure and three or four volunteer skills, let's just mention what you were taught in school is how to be civil towards each other. And outside the school they are so busy trying to keep you unaware of what's going on that there is very little concern for the general health and welfare of the women they house.

And I feel that I will fail unless I tell the world what goes on behind the walls of the mighty Rikers Island. While they are building new buildings, and running the world that they are for the purpose of bettering the conditions for the inmates, this penal system is destroying the mankind of hundreds of inmates, who have no power to strike back, picking out 5 here and 5 there, and throwing aside special confinements so as to weaken their strength. This is the world we are in, and I wonder why, so many inmates continue to hang up.

There is no preparation for a woman who had a common background. The many inmates are victims because of their religious beliefs and others because of their strong belief in rights. This institution is based on trampling down the human beings rather than helping them to compel themselves towards a bridge towards happiness and success. While they may not always make a go of it, then nothing is ever going to happen to better those who were caught up in the middle of an economic struggle, or eviction of shelter.

I urge everyone who has any valid word in the matter to step forward now to help these women and women like them, who were caught up in the area of survival.

Women's House, Rikers Island,

TO WHOM IT MAY CONCERN:

While existing here in Rikers Island my eyes have witnessed the cruel and inhuman punishments that so many inmates are victims from some because of their religious beliefs and others because of their strong belief in rights. This institution is based on trampling down the human beings rather than helping them to compel themselves towards a bridge towards happiness and success. While they may not always make a go of it, then nothing is ever going to happen to better those who were caught up in the middle of an economic struggle, or eviction of shelter.

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Women's House, Rikers Island,

 possibilites

N.Y.U. is now offering a clinical course entitled "Women's Prison", a course designed to help train women inmates to help themselves and to help women inmates to help themselves.

Professor Stuart and Herman travel with nine women students and two male resident attorneys each Tuesday evening to the Bedford Hills State Prison. Here they can learn about the criminal procedure and crimes that these women are so interested in the course among inmates is high with some 50 to 60 of them in attendance at each of the regular classes which cut into their leisure time. Some family law is also included in the course but the primary objective of the students is not merely to impart knowledge but to help build a sense of self-confidence and respect. Through the weekly trips expected this past October a prisoner received a law library similar to those being given to women in states of the country where women would never have been admitted without the Project's help.

In addition to the weekly trips upstate, the law students in the course meet at the N.Y.U. School of Law with Professors Haft and Jenkins, they carry on for one hour seminar. "Our own students get invaluable practical experience and training with the problems of women offenders," says Professor Haft. "In the seminar we try to interpret and digest it."

To go into the subject of self- awareness is a very tender and delicate thing. There are many ignorant women here until it's almost unbearable. They know nothing about this wall from where or where they're going. A women's house also needs to have the necessary things about their personal body that all women should know. Thus leaving them in a state of mind so as to always have control of some regardless to the amount of truth in it.

If I say society is so interested in the reform of the women it is because, the more color these cold bars, then it is the responsibility of society to see to it that the inmates are being properly trained and educated. If no one gives a damn, then nothing is ever going to happen to better those who were caught up in the middle of an economic struggle, or eviction of shelter.

I urge everyone who has any valid word in the matter to step forward now to help these women and women like them, who were caught up in the area of survival.

Yours Sincerely,

(NAME WITHHELD)

In jail we are politically invisible. We are removed to the bottom of society and are unable to speak for ourselves. And on

Come to our Organizational Meeting Friday, October 12 at 12:30 in the Advocate office or come to the sheet on the bulletin board in the basement.

On Tuesday, October 18 at 6:00 The Advocate sponsors a showing of the film "The Advocate Needs Your Help", a Stanford Professor's experiments in recreating a prison environment... the results were incredible and the presentation is very interesting.

We are being punished inside the jail like those who are on trial for jobs or civilians who are on trial for their own long perverted governmental system. There is no preparation for a woman who had a common background. The many inmates are victims because of their religious beliefs and others because of their strong belief in rights. This institution is based on trampling down the human beings rather than helping them to compel themselves towards a bridge towards happiness and success. While they may not always make a go of it, then nothing is ever going to happen to better those who were caught up in the middle of an economic struggle, or eviction of shelter.

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(NAME WITHHELD)

The Advocate needs your help.