

DRIVING FORCES BEHIND PRISON GROWTH: THE MASS MEDIA

BY THOMAS MATHIESEN

A TRUE STORY

Let me begin by telling you a story. A true story. But let me first briefly contextualize the story:

The 1970s was a relatively liberal period in Norwegian penal policy. During the first half of that decade, our system of forced labor for vagrant alcoholics and our youth prison system were abolished, the first of these actually reducing the prison population by a substantial percentage. Decriminalization and depenalization were at least relatively positive public concepts. And though implementation lagged behind, it was at least possible to voice the view that prison conditions were in need of improvement and that prison should be used more sparingly. The Norwegian liberalism of the 1970s had parallels in other Western countries, and in some countries, (for example Sweden, Britain and parts of the United States) led to an actual decline of prison populations.

All of this changed towards the end of the 1970s and during the 1980s. Those of us participating in the public debate over penal policy experienced a gradual stiffening of the climate. And a full transformation of the climate in Norway took place in the latter part of the decade, beginning in 1988.

And here comes my story. One could say it all began in July 1988 with the escape of a well-known imprisoned drug dealer from a birthday dinner while on a few hours leave, with staff, from prison. One could also say it continued - again in July - with the discovery that a lesser-known liquor smuggler had received a few days furlough to Denmark from a treatment institution to which he had been transferred from prison during his sentence. The drug dealer's escape was of course contrary to the rules, but escape from prison is not criminalized in Norway, and this escape represented no danger whatsoever to the public. In fact, during a later trial the inmate in question was acquitted of criminal charges brought against him for activities during his escape. (Let me add, parenthetically, that in my opinion, but perhaps not in the opinion of the Prison Department, this particular prisoner is today doing excellent work in the area of prison policy behind the walls.) And the liquor smuggler's furlough was entirely lawful. It had been granted by the treatment institution to which he had been transferred. On face value, in other words, both events were entirely undramatic. But in my society, drug dealing and liquor smuggling give the darkest of connotations, and with these particular ingredients, a public frenzy broke loose. The frenzy mounted through three major steps.

Firstly, through statements on the part of the police which came immediately and in the strongest possible language about the neighboring department - the prison service. "So spineless that I cannot stand it," said the chief of the narcotics police to

the largest Oslo morning newspaper. "We all have quotas for blunders, but the prison department has long since exhausted theirs," said the chief of the criminal police of Oslo to the same paper. If officials in the prison department had used similar language about the police, it might have ended in a libel suit. But the police are the most powerful institution within the criminal justice system in Norway and could get away with it. In fact, the police had for a long time been "after" the prison department, publicly maintaining that the department was far too liberal in its policies, especially towards drug offenders. Now the police obviously saw their chance.

The second step was the mass media follow-up of the harsh verdict of the police. That follow-up, which in fact took most of the summer of 1988, followed two typical and partly overlapping lines.

For one thing, the mass media searched intensively for similar sensational individual cases. It is part of the very development of the modern mass media, and of the modern concept of the "news-worthy", to do just that. And they found a few cases - among others, a convicted murderer and model prisoner who had received a furlough from a prison and who - according to rumor - had escaped to Morocco. Major headlines were devoted to his escape.

Furthermore, the mass media squeezed the maximum amount of sensation out of the cases that were found. To do this also a part of the very development of the modern mass media. The squeezing process in its turn also followed two lines. Firstly, the media, including the powerful national Norwegian television company, treated the few individual cases as serials. The cases were kept for weeks on the front pages or the television screen through the continual presentation of new "angles" - to use a phrase from modern Norwegian media language. Secondly, the cases were given rich contextual details in the most titillating ways. Again, the Norwegian television company was particularly imaginative. The escaped drug dealer, it was reported, had ordered breast of duck and Cardinal red wine at a restaurant during his escape. The reason for this particular order was, again, his birthday celebration. Breast of duck and Cardinal red wine were shown on the screen, the Cardinal being poured into crystal glasses on white damask. The liquor smuggler, it was speculated, might just now be visiting "Legoland" - a kind of Danish version of the American Disneyland. Pictures from the toy trains and fun in Legoland were shown on the screen.

Let me, at this point, personalize the story a bit. On one of these hot July days I received a telephone call from the Norwegian Television Company. They wanted me to make a statement. What followed shows some of the details in the workings of the modern mass media, especially television. I agreed to make a statement. Why did I agree?

In advance, I had had a fair amount of experience with the media, I had even written a fair amount about them, and knew that they were distrustful allies, to say the least. But phenomenologically, as the pleasant television woman called, that experience somehow faded into the background. I remember I thought that this was after all a chance to say something, to correct something. My prior knowledge of the fact that

you are often unable to say much at all on television, somehow evaporated. The point here is that the modern mass media, such as television, give you what I would like to call a marginal chance to express yourself. They do not stop you completely, but give you a marginal chance. The alternative to the marginal chance is to say nothing, which means silence. The structure of marginal chances to express something lures you into participation.

Furthermore, I also remember that deep inside I felt a diffuse sense of pride. I was important enough to be asked. I was not an unimportant outsider. In other words, I behaved a bit like a child who is asked to play with other important children in school. In fact, I remember I called my old mother, who was alive at the time and lived in a nursing home, and told her to watch television that night. I told myself that I called her because she would have felt hurt by not being told in advance. In retrospect, I am not quite sure that that was the only reason, and I might add that contrary to custom in the nursing home, half of the nursing home was suddenly out of bed and wide awake that particular night. The marginal chance to express at least something, which the mass media give, coupled with the sense of pride, or even feeling of existence, attached to appearance on the media scene, are two extremely important forces driving professionals and semi-professionals of all sorts and types into the network of the mass media. Such are the fine lines of media power.

Let me add, furthermore, the final result of my particular appearance on TV that hot summer day of July 1988. I made a ten-minute statement - which I actually was given the opportunity to make twice because I was dissatisfied with the first version - "on location" in front of the Oslo District Prison. The fact that the escape had taken place from an entirely different prison did not matter to the Television Company. From the ten-minute statement, one sentence was extracted in the evening news: "I am for more liberal prisons!" My statement was accompanied by pictures of breast of duck and Cardinal red wine in crystal glasses on white damask. The director of the local prison was also interviewed. Again, more or less one sentence was extracted: "I am for more discipline, though not slavish discipline!" Knowing him as a very meticulous and correct man, I am sure he said more than that. His sentence was accompanied by pictures from an American prison, where the uniformed prisoners had to run around in a circle watched by armed guards in brown battle dresses who shouted their orders to the prisoners. "Two views on prison policy," the reporter objectively concluded, implicitly informing the television audience that in Norway, breast of duck, Cardinal red wine and Scandinavian versions of Disneyland are the order of the day in the prison system.

So much, for the time being, about the mass media. I will return to them shortly. The third step in the mounting frenzy was the ensuing reactions of the politicians, including several leading members of Parliament. A large number of political statements were made by the whole spectrum of political parties, from the ultra right-wing party at one extreme to the social democrats at the other. The ultra right-wing party wanted private prisons because they would presumably tighten security in order not to lose

business. The party claimed that the proposal was brand new and original, obviously not knowing what had long been going on in several other Western countries. The social democrats argued that the penal policy of the 1970s was no longer suitable. The statements from politicians to the left of the ultra-right had the ultra-right as their background: During the preceding years, the Norwegian ultra-right party, the so-called Progressive Party placing itself to the right of the traditional Conservatives, had shown increasing gains in the opinion polls, and had become, by 1988-89, the third largest voting group in the country. National elections were coming up in September 1989. With the exception of the parties to the left of the social democrats, all of the major political parties were now making a run for it to prevent the ultra-right from winning more votes.

The three steps briefly outlined here stimulated each other. The police sent out new bulletins on the need for restrictions on leaves, furloughs, etc. This gave the mass media more to report on and the politicians more to comment on. For several weeks the three steps functioned as a totality - you might say as a typical, mounting moral panic of interacting forces. And the results soon became apparent. During the autumn of 1988 the social democratic minister of justice instituted more control in the prisons and new and more restrictive rules on leaves, furloughs, and the like. The new rules were to enter into effect as soon as possible.

I should add that somewhat later, in March 1989, a prisoner sentenced for murder and serving time in a special treatment section of a national prison, raped and killed the female guard who was accompanying him on a few hours leave from the prison. The leave had been granted as a part of the treatment program for the prisoner in question. It is hardly necessary to detail the public reaction. Again, the police, the mass media, and representatives of a broad spectrum of political groupings participated in a major public outcry. The rape and murder were reported in the greatest possible detail on the front pages of the newspapers and on the television screen. New "angles" were continually found so that the incident was kept publicly alive throughout the spring. But the sequence of events is important. The rape and murder did not come first. The completely harmless and undramatic escape on the part of the drug dealer from a birthday dinner - the man simply left the restaurant - coupled with the entirely lawful leave on the part of the liquor smuggler, came first. If the sequence had been reversed, the media treatment, and the ensuing outcry, would have been more understandable. Rape and murder are the most serious criminal acts we have. The media treatment and the frenzy, however, commenced and escalated around events which exposed the public to no danger whatsoever.

At no point did the politicians find occasion to look at facts of a more general kind concerning leaves and furloughs. In 1988, no less than 20,492 short-team leaves, in which the prisoner leaves the prison for a few hours accompanied by personnel, were granted throughout the Norwegian prison system. Of these, 99.7% were concluded without registered misconduct. During the same year, 13,613 furloughs, in which the prisoner leaves the prison for several days, usually alone, were granted. Of these,

96.8% were concluded without registered misconduct. Only 0.2% of the unaccompanied furloughs were associated with registered criminal behaviour. The number of leaves as well as furloughs increased between 1987 and 1988, but the percentage of registered misconduct went down. The possibility of unregistered crime cannot of course be disregarded in connection with the unaccompanied furloughs. But it may quite safely be concluded that dangerous, violent crime, which of course is the great public fear, almost never occurs in connection with leaves and furloughs. From a wide range of empirical prediction studies we also know that it is almost impossible to predict the extremely few incidents of this kind which do occur. None of this information, which was readily available (the success figures given above are from the Prison Department), was at any point utilized by representatives of the political establishment. They relied only the mass media presentations of the isolated spectacular incidents.

In short, the police, the mass media, and the political establishment are major social interest groups and forces in Norwegian society. Through interaction between them, revolving around individual spectacular incidents in the prison system, a long drawn-out moral panic was created which has fundamentally altered the political climate in the area of criminal and penal policy. In turn, the altered climate has paved the way for major changes in penal policy, notably changes which increase restrictions and repression within the prison system.

THE MASS MEDIA AND PUBLIC SPACE

As has been clear, my main concern is with the mass media and their influence in public space. We have piles of reports and books in media research suggesting that the influence of the media on attitudes and behaviour is at best complicated, probably overestimated. From a large number of studies it appears that the line from the media to public violence is thin at best. So is the line from the media to fear of crime, and so on. A recent study and summary of studies going in this direction (but also including original insights) is Philip Schlesinger and Howard Tumber's 1994 book *Reporting Crime. The Media Politics of Criminal Justice* (Schlesinger and Tumber 1994). I think much of this research, which is of a distinctly positivistic kind where variables are sorted out, controls of independent variables are meticulously undertaken, and sophisticated statistical techniques from time to time employed, to a large extent misses the point.

The point is that with the entry and development of television, we have entered something which is equivalent to a new religion. When the automobile arrived around the turn of the century, many people believed it was a horse and buggy, only without the horse. Reminiscent of that, we still speak of "horse power". But it was not a horse and buggy without a horse, it was something entirely new, which contained the seeds of an entirely different society. So with television. When television arrived after World War II, some people believed that it was just a newspaper in pictures. But it was not just that, it was an entirely new medium fundamentally influencing the shape and

content of the old media. The American media researcher George Gerbner has put it succinctly, as follows (Gerbner and Gross 1976, p. 180):

"[The point is a concept of] broad enculturation rather than of narrow changes in opinion or behavior. Instead of asking what communication "variables" might propagate what kinds of individual behaviour changes, we want to know what types of common consciousness whole systems of messages might cultivate. This is less like asking about preconceived fears and hopes and more like asking about the "effects" of Christianity on one's views of the world or - as the Chinese *had* asked - of Confucianism on public morality."

The parallel drawn to religion should be taken as more than a metaphor. Our relationship to television has several of the characteristics of the relationship of the faithful to the Church. The British media researcher James Curran has put it this way, in functional terms (Curran 1982, p. 227):

"The modern mass media in Britain now perform many of the integrative functions of the Church in the middle ages. Like the medieval Church, the media link together different groups and provide a shared experience that promotes social solidarity. The media also emphasize collective values that bind people close together, in a way that is comparable to the influence of the medieval Church: the communality of the Christian faith celebrated by Christian rites is now replaced by the communalities of consumerism and nationalism celebrated in the media "rites" such as international sporting contests (that celebrate a collective identity of consumers). Indeed, the two institutions have engaged in some ways in very similar ideological "work" despite the difference in time that separate them . . . the modern mass media have [for example] given, at different times, massive and disproportionate attention to a series of "outsiders" . . . comparable to the hunting down and parading of witches allegedly possessed by the devil by the medieval and early modern Church . . ."

Curran ends with the following words (pp. 227-228):

"The medieval Church masked the sources of inequality by ascribing social injustice to the sin of the individual; the modern mass media tend, in more complex and sophisticated ways, to misdirect their audiences by the ways in which they define and explain structural inequalities . . . The Church . . . offered the chiliastic consolation of eternal salvation to "the meek (who) shall inherit the earth"; the media similarly give prominence to show-business personalities and football stars who, as "a powerless elite", afford easily identifiable symbols for vicarious fulfillment . . . The new priesthood of the modern media has supplanted the old as the principal ideological agents building consent for the social system."

The transformation may be described in more precise terms. As Neil Postman (1985) has emphasized in his important analysis of modern television, in terms of media *form* we are in the midst of a crucial transformation from an emphasis on the written message towards an emphasis on the picture. The emphasis on the picture, and on the picture as that which defines what is true and false, as that which defines what actually happened as if staging did not exist, implies a fundamental cultural change in the West. The change also includes the modern press, for example through the "tabloidization" of the newspapers, with large "on the scene" pictures, large punchy headlines and brief texts. We are, as I have tried to formulate it in a book I have written on the topic, living in a "viewer society" (Mathiesen 1987). Foucault's notion of a

“panoptical” development, in which the few see and survey the many, is paralleled by an enormous contrasting but functionally related “synoptical” development, in which the many see, survey and admire the few.

In terms of media *content*, we are in the midst of a parallel change towards entertainment. We need not agree with an implication on the part of Postman, that the transformation in terms of form to the picture *necessarily* changes the content into entertainment, to agree with him that we are, in fact, “amusing ourselves to death”. Even the most serious news and even the most violent of reported events, are given an “entertaining slant”. Information and entertainment are fused into “infotainment”. Writing is still with us, to be sure, as are serious analyses. But in terms of tendency, public news space is predominantly filled with pictures and tabloids which “entertain”. Time forbids an analysis of the forces which in turn shape these tendencies. Suffice it to say that a new technological era, witnessing entirely new production systems as well as communication systems in the mass media area, with countless satellites filling the sky, have enabled market forces to enter public space in a way unthinkable three or four decades ago.

PRISON GROWTH

Now, what has this to do with prison growth? Quite a bit, I think. I am not suggesting that the development of the mass media is a factor operating with equal strength in all regions of the world which have seen prison growth. My hunch is that the forces behind prison growth vary internationally. I am restricting myself to something which I feel I know a little about - the Western world. But neither am I suggesting that the development of the mass media is the only factor behind prison growth in the West. This would be much too simple an explanation. I am, however, suggesting that the development of the mass media which I have sketched, and which I think is particularly relevant to the United States and parts of Western Europe, facilitates prison growth in the sense that it opens up for growth, it demantles the defences which otherwise might be mustered against escalation and for de-escalation.

Let me be more precise. Three major and related consequences of the development may be pointed out.

Firstly, penal policy has become much more of a “commodity” than was the case a few decades ago. In the 1950s, penal policy was at least to some limited extent governed by general theoretical, philosophical and even scientific concerns. The treatment philosophy of the 1950s and 1960s is an example. That philosophy, and other philosophies as well, proved to be wrong. This, however, does not detract from the sociological significance of the change which has occurred. Penal policy today is governed much more by those kinds of news which are news-worthy and thereby saleable for the media and by what is marketable political opinion in the media. One might say that political marketability is part of Western democracy. But when we know that what is politically marketable as far as penal policy goes is founded on highly indirect, selective and skewed information filtered through the mass media, its alleged

democratic aspects become suspect to say the least. The commodity character of today's penal policy explains the erratic repressiveness and sudden rounds of escalation of penal measures which is so characteristic of contemporary decision-making in the area.

Secondly, in parallel with the first change, a change has also occurred in the type of legitimation sought by those who make penal policy decisions. Some decades ago, one could say that legitimation at least to some extent was principled: it was at least to some extent grounded in principles about the rule of law and similar values. These principles could open the way for many kinds of policies but were nevertheless principles. Today, legitimation seems to be almost purely opportunistic: it is grounded in concerns about what "goes" in the mass media and among the voters. The kind of principled reductionist penal reform initiated by Winston Churchill during his brief tenure as British Home Secretary in 1910-11, described so eloquently by Andrew Rutherford, which was followed by a major drop in the British prison population (Rutherford 1986), is therefore much more difficult to imagine today. So, too, is the principled reductionist policy of the then Swedish Minister of Justice, Lennart Geijer, as late as the 1970s.

Thirdly, as a parallel to the first two changes, a change has also occurred in the nature of public debate over penal policy. As a result of the more theoretical or philosophical concerns underlying penal policy some decades ago, and the search which did exist for principled legitimation, what may be called communicative rationality - to use the German sociologist Jürgen Habermas' term (Habermas 1981) - was at least to some extent present in that debate. Communicative rationality implies an emphasis on truthfulness, relevance and sincerity in argumentation. It was, in other words, possible to argue in a truthful manner, with relevance and with sincerity, and such argumentation was given at least some hearing at the decision-making level. The best example of this is the fall of the treatment philosophy. That fall occurred at least partly as a consequence of research into the effects of treatment, and it followed a relatively informed debate where research results were an important part of the argument (Mathiesen 1990). Today, communicative rationality seems to be in retreat. One might say that even more than before, communicative rationality lives its life in the secluded corners of the professional journals and meetings, while the public debate, flooded as it is with dire warnings by the police and sensational crime stories and, most significantly, by opportunistic political initiatives in the context of burlesque television shows called "debates", is predominantly characterized by the rationality of the market place.

AN ALTERNATIVE PUBLIC SPACE

What I have said here points to a rather bleak immediate future. I think this is realistic. But the fact that penal policy is developing for the worse, is not a good reason for not mustering resistance against it. Rather the other way around: it is a reason for mustering resistance.

That a reversal may take place is more than wishful thinking. In his intriguing ar-

ticle on the memories of abolitionist victories of the past, the German criminologist Sebastian Scheerer reminds us that there has never been a major social transformation in the history of mankind that has not been looked upon as completely unrealistic "by the large majority of experts even a few years before the unthinkable became reality" (Scheerer 1986, p. 7). He points to the Roman empire and to the institution of slavery as examples of structures which looked extremely stable almost until the day they collapsed.

I would like to add the abolition of the witch hunts in the Spanish realm during the first years of the 1600s. The Danish historian Gustav Henningsen, but also others such as the eminent historian of the Inquisition, Henry Charles Lea, have related the story of how the witch hunts throughout the enormous Spanish empire were simply abolished almost from one year to the next - between 1610 and 1614. The Spanish Inquisition had a history of being conservative as far as the witch issue was concerned. Their primary business was heresy, not witches. Yet, the witch hunts in the Spanish realm disappeared at a time when the institution of the witch hunts appeared as solid as ever, following a major execution of witches in Northern Spain in 1610 (Henningsen 1981, Lea 1906/1966). When I read it, Henningsen's account of what happened under the inquisitor Alonso de Salazar Frías in Logroño in Northern Spain reminded me of my reading of the juvenile deinstitutionalization in Massachusetts in the 1970s under Jerome Miller. Some of the conditions making abolition possible were strikingly similar.

By way of conclusion, let me briefly mention one line of action which I think is important under today's conditions, and especially in view of the mass media situation which I have sketched, in at least limiting growth.

The key word is, in Norwegian, "alternativ offentlighet", in German, "Alternative Öffentlichkeit", in English, the much more cumbersome phrase, "alternative public space". The point is to contribute to the creation of an alternative public space in penal policy, where argumentation and principled thinking represent the dominant values. I envisage the development of an alternative public space in the area of penal policy as containing three ingredients.

Firstly, liberation from what I would call the absorbent power of the mass media. I have touched on it before: the definition of the situation implying that existence is dependent on media interest, media coverage. Without media coverage, with silence in the media, I do not exist, my organization does not exist, the meeting has not taken place. In Western society, it is probably impossible to refrain completely from media participation. But it is certainly possible to say "no!" to many talk shows and entertainment-like "debates" referred to earlier which flood our various television channels, and most importantly, it is certainly possible not to let the definition of our success and very existence be dependent on the media.

Secondly, a restoration of the self esteem and feeling of worth on the part of the grass roots movements. It is not true that the grass roots movements, emphasizing network organization and solidarity at the bottom, have died out. What has happened is that

with the development of the mass media which I have outlined, these movements have lost faith in themselves. An important example from recent Norwegian history of the actual vitality of grass roots movements: In 1993, thousands of ordinary Norwegians participated in a widespread movement to give refugees from Kosovo-Albania long-term refuge in Norwegian churches throughout the country. The movement ended in a partial victory, in that all of the cases concerning Kosovo-Albanian refugees were reviewed again by the Ministry of Justice. The example suggests that grass roots solidarity even with "distant" groups like refugees did not die out with the Vietnam War.

Thirdly, a restoration of the feeling of responsibility on the part of intellectuals. I am thinking of artists, writers, scientists and certainly social scientists. That responsibility should partly be directed towards a refusal to participate in the mass media show business. Partly it should be directed towards re-vitalization of research taking the interests of common people as point of departure. This point is not new, but goes, of course, several decades back in Western intellectual history. The area is full of conflicts and problems, but they are not unsolvable.

We have tried to do some of this in Norway, in the organization KROM, the Norwegian Association for Penal Reform, which is a strange hybrid of an organization, with intellectuals and many prisoners, with a common cause (Mathiesen 1974, 1995). By organizing large conferences on penal policy every year (to create a tradition, organizing them in the same place, in a mountain resort outside Oslo) with wide participation from the whole range of professions and agencies relevant to penal policy, as well as many prisoners, by organizing regular seminars, and so on we try to create a network of opinion and information crossing the formal and informal borders between segments of the relevant administrative and political systems. The point is precisely that of trying to create an alternate public space where argumentation and principled thinking are dominant values, a public space which in the end may compete with the superficial public space of the mass media.

Our attempt has the advantage, over against what goes on in the mass media, of being based on the actual and organized relationships between people. The public space of the mass media is in that sense weak: It is a public space which is unorganized, segmented, splintered into millions of unconnected individuals - this is its truly mass character - and equally segmented into thousands of individual media stars on the media sky. This is the Achilles' heel of the public space of the media, which we try to turn to our advantage.

This is one line of thinking and working. There are obviously others. The limitation of the growth of prisons, and the turning of escalation into reduction, requires them all.

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Address: Professor Thomas Mathiesen
Institutt for rettssosiologi
Universitetet i Oslo
Postboks 6861
St. Olavs Plass
N-0130 Oslo