

Liberty To Captives

The Early Release of Prisoners - 8th March, 1995

The Political Context

On 31 August 1994 the IRA declared an indefinite ceasefire. Loyalists followed suit just over one month later. This brought about a very significant change in our situation. It has given us an opportunity for a new start.

Nonetheless, our society cannot be described as being at peace. Violent attitudes and behaviour remain endemic and sectarianism continues to exercise a significant hold on many people. The loyalist and republican organisations continue to exist, their weapons have not been handed over, and punishment beatings occur on a daily basis. There are those who continue to have doubts as to whether the ceasefires will hold, while others wish to make rapid progress to all-party political talks.

The Moral Reality

Many victims of paramilitary violence are deeply and rightly angry about the injuries done to them. Others in society who have not been directly injured are also angry because of wrongs committed both against the victims and against society as a whole. This has to do not only with the death of loved ones or with physical injury. It is also a response to the failure of people who use violence to treat persons as persons. Violence denies the human right to exist.

This is where society's need to punish comes in. Punishment is a statement that the injury matters and, more fundamentally, that persons in society matter. A trial and a sentence give expression to a legitimate anger. The story of the injury is told, people get a degree of justice, their humanity is affirmed, and this may help them to let go their anger. Without a criminal justice system people often feel impelled to express their anger in unrestrained ways, for example through vengeance. These are some of the reasons why many are reluctant to allow prisoners to be released early.

However, we also need to recognise that politically motivated prisoners, both loyalist and republican, are deeply rooted in our community. They have acted out the aspirations, fears, angers, hatreds, and hurts of much larger groups who would not allow themselves to become involved personally in violence. We need to face the fact that these prisoners are part of our community, even though many of them have been rightly convicted of crimes for which they must carry responsibility. The moral reality is that they belong to us and we belong to them. We share a fundamental solidarity in sin, even though we may be rightly angry for what they have done. Prisoners cannot be written off as having total responsibility for the violence of the last twenty-five years. We all have our particular responsibilities.

Complicity

We all need to acknowledge our part in the violence: in our condoning of it, in our rejoicing or simply not caring when someone was killed from the other tradition, in our passing by on the other side, in our benefiting from the violence in all sorts of ways, in our refusal to change which helped to keep the violence going, and so on and so on.

A Divided Society

There are other factors which should influence our attitudes towards politically motivated prisoners. Northern Ireland is a divided society where the legitimacy of the state has been contested and where there has been a long tradition of the use of violence for political ends. This use of violence has been recognised as legitimate by quite large numbers of people. Even larger numbers do not regard those involved in politically motivated violence as simply criminals. There has been an ambivalence on all sides towards the use of violence and towards politically motivated prisoners. Also, very many of those convicted were caught up at a young age in the consequences of our community's descent into conflict and violence, and ended up in paramilitary organisations. A large number would not have seen the inside of a jail were it not for the Troubles.

Further, the criminal justice system has been substantially weakened by the need to respond to violence and this has had the result of lowering the quality of justice. For instance, the convictions of some are regarded as unsafe by many neutral commentators. The lack of convictions of members of the security forces for unlawful actions has been a source of concern to many. There has also been a perception that those members of the security forces who have been convicted of serious offences have been treated differently from other prisoners (the most recent example being that of Private Clegg)

Nevertheless, many of those in prison have rightly been convicted for terrible crimes, and the continuing functioning of the criminal justice system in Northern Ireland, despite its serious inadequacies, has been one factor in preserving us from even worse retaliatory violence and an even more divided community.

The Release of Politically Motivated Prisoners

International experience suggests that the early release of politically motivated prisoners is going to be necessary (cf NIACRO's report *Release and Reintegration of Politically Motivated Prisoners in Northern Ireland*). It is part of the necessary measures to develop a peace process and to help to create a climate for a political settlement.

It will not be an easy move to make. If handled wrongly, it could suggest that what was done and the suffering of the injured and their families are not of serious account. Very real burdens will be put on the victims. There is no early release for them. For many there can be no adequate compensation, reparation or justice. This is part of their situation. So the victims of violence are being asked to give up their claim to justice, or at least to limit their claim. This needs to be seriously faced in discussions of early release. We also need to face the reality that deep wounds will continue to be carried by many people. These hurts, pains and wounds must be acknowledged. That, too, is part of the peace process.

The victims of politically motivated violence are, of course, not the only people who have been dehumanised in Northern Ireland. The communities from which paramilitaries come have also been dehumanised, by security force actions, by sectarian violence, unemployment, and so on. To go further, members of the security forces and prison officers have themselves been dehumanised by what they have been involved in and by what has happened to them. In fact, we are all caught up in a tangled web of injustice, conflicting rights, of being sinners and sinned against, of being victims and victimisers. That is not to say that we make no

distinctions between actors, actions and activities, but rather to suggest a moral complexity of which we are all a part.

Remorse

The release of politically motivated prisoners is part of the process of reconciliation. One element in that is remorse. It really seems to matter whether people who cause hurt show remorse. Contrition is a sign, however belated it may be, that the one we have injured is, after all, a fellow human being with a claim upon our respect. Thus, saying sorry and showing remorse are important. The release of politically motivated prisoners would be easier if paramilitary organisations clearly showed remorse for their actions. Similarly, acknowledgement by the Government of unjust actions by the security forces, for instance on Bloody Sunday, should be part of the process as well. Such actions by the Government and by paramilitaries could have a very positive effect on the atmosphere in the community.

The Problem of Forgiveness

A second element in reconciliation is forgiveness. This is not easy. How can we forgive those who have hurt us irreparably? How can those who have murdered forgive themselves or find forgiveness? How can those who have murdered and wounded, and those who have suffered the consequences of murder and woundedness co-exist in the same land? These questions show that the issue of forgiveness is not simply one for the pious. Nor is it only for individuals. It is also a task for groups, Churches, and states. It is of vital practical necessity so that people can live with themselves and with others.

A New Start

We all need a new start in Ireland and in Britain. We need to move out of the almost overpowering undertow of past evil, endless action and reaction, hostility and resentment that drag us down and threatens to drown us. The cessation of violence provides us with such an opportunity. An important, and indispensable part of that opportunity is a permanent letting go of violence. People need confidence that this is the case and that is why some decommissioning of weapons is important. It is a sign, a promise, that things will be different in future.

A permanent end of violence gives us a context for a new start. Part of that new start requires us to look at the position of politically motivated prisoners. We cannot have a new start without also giving them the possibility of a new start.

This may seem uncaring to victims. However, refusing to release prisoners will not solve the problems of victims. They will still be left with their loss and their pain as they struggle to rebuild their lives.

Traditionally, there have been two main arguments for prisons. One is punishment. The second is the protection of society. Many prisoners have served very long sentences. While one can always argue the appropriateness of a particular sentence for a particular crime, nonetheless one cannot deny that many prisoners have already received considerable punishment for what they have done. The existence of the ceasefires means that any danger to society in releasing prisoners has been very greatly reduced.

As a group we therefore believe that politically motivated prisoners must be released early and that we need to act on this urgently. It is necessary in order to create a future which will not involve evils like those we have experienced in the past twenty-five years. It must, however, be done in a way which will preserve the seriousness and the moral weight of the offences committed.

The following is a list of possible ways to reduce the number of prisoners. It is not our task to assess the appropriateness of any of them, provided that the methods used lead to the release of a significant number of prisoners and provided also that these come from both loyalist and republican groups.

- release all prisoners who have served over twelve years (This would be the equivalent of a twenty-four year sentence if there was 50% remission, or an eighteen year sentence with 33% remission);
- release those who have served a considerable number of years and who were very young when they committed their offences;
- increase the remission rate to 50%;
- deal urgently with the issue of the transfer of the remaining prisoners from England to Northern Ireland and the Republic;
- be more flexible on the conditions governing compassionate release;
- improve the conditions of prisoners generally, especially in England.

If we refuse to make any move on prisoners we are in effect saying that the ceasefires have changed nothing. Can we then say that we are serious about creating the conditions necessary for a lasting peace? Of course there is an element of risk involved in early release. But without accepting some risks we condemn ourselves to further endless conflict.

Finally, we recognise that the peace process is currently at a critical moment and that the issue of prisoner release inevitably affects it. We have argued that there are moral grounds for encouraging the early release of politically motivated prisoners, but we also believe that making such a move urgently will significantly help the peace process.