



## getting real about crime

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# Comment

In Henry Adam's 2003 play 'The People Next Door' an elderly woman is sitting in her small flat alone thinking about the nature of fear. She thinks about the fears of her elderly friends who refuse to leave their house because they worry about their safety. She concludes that if they never see the outside world but only imagine it, no wonder they're scared to go out. As she puts it "they run home from their sewing bee and lock their doors, waiting for a psychopath who never comes".

And that is a pretty good summary of the first half of Scotland's crime problem. But before we consider this, it is important to start with some caveats. Firstly, nothing which is said against the 'fear of fear' (or phobophobia as Bart Simpson puts it) is to take anything away from the experience of being a victim of crime. It can easily be the worst experience of someone's life - or the last. Secondly, saying that the problem facing society is less about crime than the fear of crime isn't to suggest that we do not face a problem with crime or that it does not need to be addressed.

However, those caveats aside, there are very few of us who face the kind of crime which need absorb a large part of our lives. Even people who have entirely legitimate reasons to feel victimised by crime (someone who has been burgled) are capable of taking a crime and making it into something else; a phenomenon. In practice, if someone steals your TV you can get another one as soon as you call your insurance company. "But my children were in the house" or "I don't feel safe in my bed any more" are responses to fear. If their children remained untouched, the drama is over. If they thought previously that their house was impregnable then they were daft. It is not the act but the context which is the problem (the exception being violent or personal crimes). And the context is phobophobia - the fear of fear, the waiting for a psychopath who never comes.

There is so little to say about this which isn't obvious: scared people let things happen to them and are easy to manipulate, vested interests love the high drama of the fear of crime because it benefits them, people get a kick out of moral outrage. But the

fact that it is obvious has changed nothing. Still we are rapidly becoming the least 'free' country in the 'free' world. It doesn't matter how you measure 'free' in this context - unless you wish to attempt the meaningless Blairite contortion of 'free of crime'. From the number of CCTV cameras through the controlling power of the 'paedophile vigilante mob' to the thousand and one new 'crimes' invented by Government since this time last year, Britain is less free by the day. The statistics on our prison population is almost like an intentional metaphor.

But there is a second problem with crime, and a second reason they want us locking our door against imaginary psychopaths - and that is because there are real psychopaths they want to protect. Not so much the poor manufactured psychopaths we train up to be killers in the Armed Forces and then dump back on society when no longer useful where they end up making up a full one in ten of the entire prison population. More the legitimate psychopaths - corporations. The film *The Corporation* sets its case out well; if you take the behavioural characteristics of a psychopath and the behavioural characteristics of a company answerable first and foremost to shareholders, they are more or less the same. Morality-free, single-minded, seeing rules and regulations only in terms of barriers, carrying out actions which cause massive harm to other people but compartmentalising it in their minds in a way they can live with and so on. Many, many more people will die this year because of the actions of corporations than will die at the hands of criminals, and many, many more people will lose their possessions and their livelihoods.

To return to our caveat; knife crime ruins lives and must be tackled. And then to return to our main theme; in fact you are infinitesimally unlikely to be a victim yourself so there is little reason to be scared and if it wasn't for the aggressive marketing campaigns of the alcohol producing corporations and their intentional targeting of groups capable of buying the booze but incapable of properly socialising its use (especially young men) then the problem would melt away. Know your psychopaths. ■

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All illustrations: Nadia Lucchesi  
 nadial\_@hotmail.com

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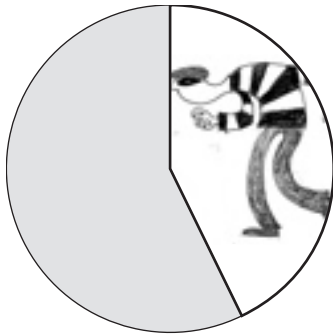
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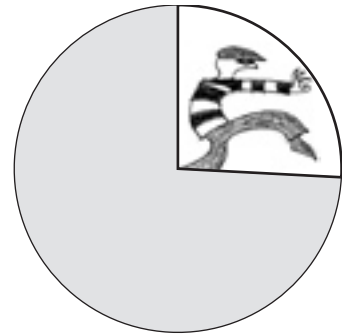
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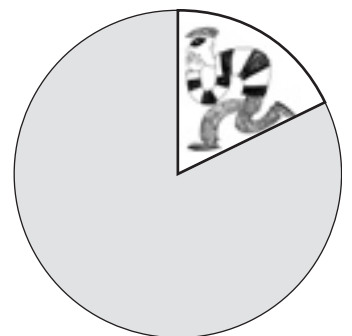
# briefing: crime and the media



Tabloid readers almost twice as likely to be worried about crime as broadsheet readers and 43 per cent of tabloid readers thought crime had increased a lot in comparison with 26 per cent of broadsheet readers over a period in which most crime had not increased. (British Crime Survey 2003)



44 per cent of women said they felt unsafe walking in their area at night compared to 18 per cent of men. In fact, it is men who are at greater risk. (Scottish Crime Survey 2003)



Twice as many people in Scotland thought they would have their homes broken into or be the victims of violent crime within a year as would actually happen. (Scottish Crime Survey 2003)



“The press is in a key position to provide information about people, places and events of which individuals and groups may have little first-hand experience .....Therefore it is alarming to think that, while the language used in the press may have changed in the last 30 years, many assumptions linking minority ethnic groups to violent crime remain.”

Runnymede Trust A Tale of Two Englands – ‘Race’ and Violent Crime in the Press

“The problem is not the inaccuracy of individual stories but that the cumulative choices of what is included – or not included – in the news presents the public with a false picture of higher frequency and severity of crime than is actually the case. ....Media depictions of crime do not reflect the rate of crime, the proportion of violent crime, the share of crime by youths or the proportion of criminal acts by people of colour.”

Berkley Media Studies Group report Off-Balance; Youth, Race and Crime 2001

# ignoring this report would be the real crime

## Isobel Lindsay looks at the McLeish Report and finds in it a very promising blueprint for criminal justice in Scotland

The McLeish Report stands in the same category as the 1964 Kilbrandon Report on Young Offenders which introduced the Children's Panel system. Just as Kilbrandon was a rational, radical and humane response to dealing with young offenders, stressing that there was no clear-cut divide between the young person offending and the young person in need of care and protection, so McLeish proposes a rational, radical and humane response to dealing with the large proportion of inadequates who go in and out of the revolving doors of our prisons. Kilbrandon had to face the populist posturing of some of the politicians and media of the period and we can see from initial responses to the McLeish Report that the same culprits will be back in action forty years on. The reason to be optimistic is that there is no-one else with any other answers except to spend more and more money on more and more prison places with no significant impact on the incidence of crime. Also this is a very well-argued analysis with no shortage of evidence to help the Minister and other supporters to present the case for change.

### The Problem

Scotland is certainly not close to being the worst in the world in rates of imprisonment (i.e. the number per 100,000 of population). The astonishing numbers in prison in the United States is far and away the most extreme in the world. While China has a rate of 189 including those awaiting trial, the American rate is 754 (2.3 million in prison with a disproportionate number who are black). Yet we hear no international outcry about human rights issues in relation to the brutal US penal system. The Scottish rate is now 141 but 10 years ago it was only 118 so we have experienced a substantial increase in a short period during which the main trend in most crime rates was static or downwards. How do we compare to other European countries? In Western Europe, Spain and England are highest and Scotland is close behind. Denmark, Ireland, Finland, Switzerland, Sweden, Norway have rates that are close to half the Scottish level. This clearly begs the question of why our society puts so many people in prison. In a decade there has been a 90 per cent increase in the number of women in prison and a 15 per cent increase in males. The annual cost per prisoner is £31-£40 thousand and if we continue to go down this path of ever-increasing prison numbers, that money has to come out of other budgets and there will be little for preventative and rehabilitation work. The current prison system has a very low success rate in changing behaviour. Only one third avoid reconviction within two years after release.

### Who Goes to Prison

The Report argues that prisons are acting as a catch-all for the social problems we have failed to deal with elsewhere. The growth in numbers has been driven by those receiving short sentences, not by long-term prisoners. 83 per cent of sentences were for six months or less.

Some indicators of prisoner profiles:

- 90 per cent of women in prison have drug or alcohol problems and 75 per cent have a history of abuse and serious health problems.
- Compared to the general population, prisoners are:
  - 13 times more likely to have been in care as children
  - 13 times more likely to have been unemployed
  - 15 times more likely to be HIV positive
- 70 per cent have suffered from mental disorders
- 20 per cent of men and 37 per cent of women have attempted suicide
- 80 per cent have writing skills of 11 year-olds
- 65 per cent have numeracy skills of 11 year-olds
- 50 per cent have reading skills of 11 year-olds

For prisoners under 20, the problems are even more intense.

Although the figures were not available until after the Report was published, over nine per cent of prisoners in the UK have previously been in the armed forces, most having served in Iraq and Afghanistan so there are clearly issues around the impact of war and the armed services.

Prisoners also come primarily from a small number of poor areas. Half of those in prison came from 155 of the 1,222 local government wards in Scotland. Glasgow, Dundee and Inverclyde have around double the Scottish average rate and this correlates with the high levels of poverty. Periods of imprisonment can cause further problems for other family members in these communities and once someone has a prison record, the prospects of work become even more problematic.

For prison staff and other professionals in the penal system, these over-crowded, revolving door institutions provide little opportunity for the job satisfaction of positive work.

### The Solutions

Since high prison numbers don't reduce crime and fail to do so at a high cost, the alternative has to be to keep prison for "people whose offences are so serious that no other forms of punishment will do and for those who pose a threat of serious harm to the public". The aim should be to reduce the prison population from an average of around 8,000 a day to 5,000. The standard punishment for less serious offenders should be 'payback' in the community, supervised by court-based social work units. But for this to work there must be an extension in the types and availability of suitable options, both in prosecution as well as sentencing. By payback is meant "constructive ways to compensate or repair harms caused by crime". This can take the form of:

- Making good to the victim
- Making good to the community
- Working towards personal change to reduce offending behaviour
- Restriction on activities

There should be a three-stage approach to sentencing and managing CSS. The first stage would be deciding how much payback, then what kind and then provision for checking progress. To do the latter, there should be progress courts established to ensure quick and regular review of compliance.

In order to ensure that there is a radical shift in sentencing, judges who would otherwise have imposed a sentence of six months imprisonment or less, should be required to impose a CSS instead, except in particular circumstances. Also there should be legislation to enable the use of conditional sentences, suspending implementation subject to specific conditions. As well as alternatives to sentencing, there should be more alternatives to prosecution to reduce the delays before court appearances, ensuring that justice is swift.

The new system will require institutional developments at the national level to manage the change effectively:

- **National Community Justice Council.** This would lead the implementation of the new CSS and develop improved services for ex-prisoners. This would involve representatives of the various stakeholders – social work, criminal justice, police, etc. It should be appointed by the Scottish Government but be at arms length from it.
- **National Sentencing Council.** This would have responsibility for developing clear sentencing guidelines that can be applied nationally to improve the consistency of sentencing. This is already in the legislative programme.

Both of these bodies would work with the Parole Board for Scotland and the Scottish Prison Service. An important part of their role would be to develop better communication with the public and the media to increase public understanding and confidence in sentencing and resettlement. The Report emphasised the importance of being proactive in engaging with the public so that there is a wide understanding of what the new approach is trying to achieve.

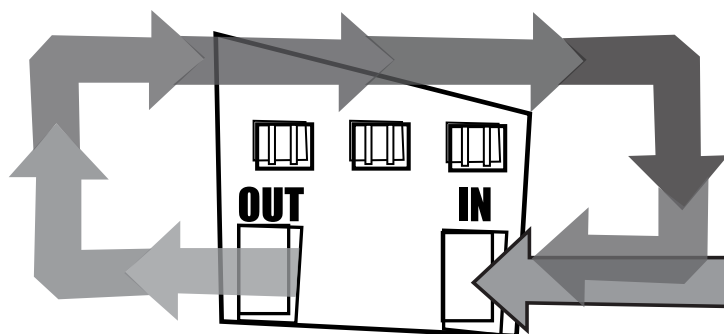
- **16- to 18-Year-Olds.** We should consider new arrangements for this age range. There should be options in secure youth facilities separate from older offenders and under-16s. There should also be a re-examination of the case for diverting 16-17 year-olds to specialised youth hearings.

### Will It Work?

The evidence from other countries suggests that this approach can work but it will need investment in alternative services. This will, certainly in the medium term, be more than compensated for financially by the reduction in prison numbers. But there

will be a short period of transition when the investment in alternatives will need to come before the savings in reduced prison numbers. The development of Community Service Sentence options will need to be imaginative, varied and well-prepared. The development work will also have to be primarily local since the demand and the work potential will vary from area to area. Engaging with local organisations will be central, not just in developing CSS programmes but in promoting informed opinion about the objectives of the system. The approach least likely to work will be to confine the discussion and planning of 'payback' to a small group of professionals.

A combination of useful work programmes plus skills training and personal development sessions will be the most appropriate payback package for many but they will need to be visible and significant in the outputs. They will often have to be delivered at peak 'recreational' time, partly for punitive reasons and partly to help those who have jobs to retain them and they will need good supervision. This will be a challenge to deliver.



Another major threat will come from those in politics and the media who will not be able to resist playing on public ignorance and fear. We can expect this from most of the unreconstructed Tories in the Bill Aitken mode but how Labour and Liberal Democrats respond will be crucial. The initial response by Labour's Pauline McNeil

was disgraceful. In the 1960s Labour at Westminster was in the forefront in delivering reform in youth justice in Scotland. In recent years people like Cathy Jamieson and Margaret Curran have tried to play to the tabloid gallery and we can only hope that this is modified when the decisions have to be made. All of this will have to be handled with political skill. Kenny MacAskill has shown courage in promoting change. He should call on the services of those on the McLeish Commission to promote the proposals at Holyrood, local government and in the media. They have a strong case to present.

There is likely to be another source of opposition. The Sunday Herald's revelation that the Glasgow Bar Association hired a PR company to attack the existing summary justice measures designed to keep more people out of court is an indication of one vested interest which will not like the reforms because overall they should result in fewer conventional court appearances and fewer legal aid fees. It's PR company trawled the records to identify a few cases where the disposals appeared to have been used inappropriately and fed these to the media with no indication, of course, as to whom their clients were. On the other hand the Prison Service, social work and voluntary organisation involved in preventative and rehabilitation work should be supportive voices in this debate.

It would be a terrible reflection on Scotland if Westminster in the 1960s could pass rational, reforming legislation on penal policy but Holyrood in 2009 could not. ■

*Isobel Lindsay is Chair of Wiston Lodge, a residential centre engaged in development and training work with young people*

# inside out

## Two offenders currently in Scottish prisons give their views on the McLeish Report

(For a list of the McLeish recommendations go to [www.scotland.gov.uk/Publications/2008/06/30162955/1](http://www.scotland.gov.uk/Publications/2008/06/30162955/1))

Taking the recommendations in total, they represent a positive change in penal policy. I feel it likely, however, that they will not be implemented in total - due to constraints in funding and resources. Their impact will, therefore, be greatly reduced. Given the word-limit, I shall address what I believe to be the most important factors. It is clear that the present penal policy does not work, given the recidivism rate, and I believe that only a root and branch reform is likely to change that. It is undeniable that there are individuals in respect of whom only imprisonment will protect the public, but prison is greatly overused in Scotland. I accept that much of this is led by public opinion.

I applaud Rec. 10. From the first decision on bail, the process can be skewed by questionable Custody Statements, thereby overloading the untried facilities. And given that an accused has been remanded in custody, there is a greater expectation that a custodial sentence will be imposed. I applaud recommendations 1 to 7. Recommendation 8 is almost guaranteed to meet with opposition from the judiciary, guarding their independence. I also believe that Rec. 11 will meet with a greatly varied response. Recs. 12 to 15 could suffer the same individual approach.

There appears to be a greater incidence of prisoners being recalled for fairly minor infractions, and this does smack of social workers lightening their case-load by returning the less co-operative prisoners. There also seems to be an expectation that such prisoners will not be considered for rerelease once recalled (Rec. 20). Recs. 17 to 19 have resourcing implications and face negative public opinion in appearing to want 'more money for less gaol'. I feel that there is a great need for public education on the economics and benefits.

Recs. 21 to 23 are of enormous importance. At present, prisoners being released can have any amount of 'being talked to', but feel a lack of **practical** support - often the most needed. There is little point of release to sit bored in a hostel, with no aim or direction. Such help as may be available (e.g. NEDAC) can only be accessed by a three-mile walk, since benefits do not stretch to bus fares. A much greater effort needs to be made to get such persons into paid employment, by the provision of government schemes to incentivise employers.

In all, I applaud the recommendations, although I do feel that much more needs to be done to resettle long-term prisoners which, other than Rec.22, the report does not address. Short-term prisoners who reoffend tend to do so with less serious crimes, while long-term prisoners tend to commit more serious crimes, requiring ever more severe sentences. Research has shown that once certain lengths of sentence are exceeded, prisoners tend to become 'institutionalised', so increased sentences tend to give diminishing returns.

A greater emphasis on rehabilitation and resettlement could cut recidivism. Many long-termers, particularly first offenders, feel that rehabilitation is accomplished **despite**

the system, rather than with its support. ■

*John*

Does the recent McLeish report hold the answers to the complex problems in regards to the overcrowding in Scottish prisons? The Commission believes if we follow their recommendations this will improve the criminal justice system and deal more effectively with the growing numbers in Scottish prisons. The increasing numbers clearly show that the criminal justice system is losing the fight against crime and their policies towards punishment.

The present modernisation of Scottish prisons appears to be moulded around the prisoners' 'human rights' rather than around the policy of punishment and deterrence. You only need to take into account how the present day prisoner is cared for to see how modernisation is having the complete opposite affect to deterrence. How can the criminal justice system deter offenders from coming to prison when prison life is the contrary to punishment? The criminal justice system appears to have lost its sight in regards to how offenders are being treated within the Scottish prison system

The commission recommends: short-term prisoners who are not a risk in the community should be sentenced to a "community based service" for their offences. How would this approach appear to the offender or the general public, certain crimes will be punishable in the community rather than being sent to prison? There is no deterrence in this approach and this would only give rise to an increase in offending. It's all good and well to propose recommendations towards a pursued target of reducing the prison population, but this approach does not tackle the issue of deterrence or an effective system of punishment. You only need to look at the modern-day prisoners and at their privileges to see why prison is no deterrent. Presently prisoners are allowed in their possession: games consoles, DVD players, stereo players, own clothes and in-cell televisions with the allowance of 20 free-view channels.

The Commission needs to take more of a fundamental approach to deterrence and punishment. There needs to be an implementation of a 'hard-line' approach if the Scottish Government wants to reduce the numbers instead of turning prison environments into an acceptable haven for offenders. Prison is meant to be a place of punishment not a place of recreational comforts. Offenders clearly understand their behaviour is morally wrong, but there appears to be no solid approach to how this behaviour should be tackled with an effective punishment period. If prison was perceived as a place of punishment then deterrence would have an influence on the offender and his behaviour.

Punishment is non-existent in Scottish prisons. ■

*Stuart*

# crime pays – but for whom?

Sarah Armstrong explores who really benefits from crime

About 100 years ago, the great sociologist Emile Durkheim turned common sense on its head by claiming not only that crime is normal but that it is necessary for healthy societies to flourish. He argued that crime draws us – the law abiding – together, in horror, outrage and, thereby, in solidarity. This remarkable idea that crime has benefits for the innocent continues to intrigue academics (and bedevil undergraduates) today. Can it be possible that we need crime? Aside from whatever moral renewal it might trigger, there are other ways that societies are increasingly dependent on crime. In this article I focus on crime's more prosaic beneficiaries. Which groups and individuals gain the most financially and politically from crime? The first part of the answer feels as wrong-headed as Durkheim's revolutionary thesis: crime pays, but not for criminals.

One reason for this is that the people most likely in Scotland (as elsewhere) to perpetrate crime are also most likely to be its victims. The economic benefit of knocking someone on the head and making off with their watch is offset by getting knocked on the head and stolen from. And though it is true that police make arrests in only a small proportion of crimes that take place in a given year, street crime is still not a very sustainable career choice. Adapting an adage, nearly all criminals get caught some of the time and some criminals get caught all of the time. It's a high risk, low payout way of life. One American study found that the average take among those caught shoplifting amounted to the equivalent of £30 (Jack Hayes, *Discount Store News*, 1990).

(Note that I am discussing specifically 'street' crime. For crimes of the powerful, or so-called white collar crime, line drawing gets difficult between harmful things the powerful do that are against the law and the harmful things they do that are legal. My focus here on the beneficiaries of street crime is directed by the fact that this tends to be what politicians and the media are referring to when they talk about a crime 'problem'.)

So who are the beneficiaries of crime if not those doing it? The reasonably alert reader will already have in mind a few of these crime 'winners', but it is one hope of this article to surprise even the cynical observer by pointing out some of the less obvious beneficiaries. Herewith, I present a list of the beneficiaries you probably already know about alongside a discussion of some of crime's dark horses.

## The beneficiaries of crime that you already knew about

**1. The crime companies.** For the first time in the history of

capitalism, the crime trade occupies its own sector of the legitimate economy. In business-speak this trade is referred to as 'security services'. These are the firms who would not exist but for crime, and possibly more significantly, the fear of crime. There are now more private than public police in the world, and by comparison to what you or I grew up with in the 1950s, '60s or '70s a seeming infinity of ways to protect our homes and monitor our children's movements. Once Addiewell prison opens in January 2009 Scotland will soon have its second privately financed, constructed and managed prison. When Addiewell reaches its capacity of 700 prisoners, Scotland will have a higher percentage of its prison population in for-profit prisons than any other country in the world.

**2. The secondary crime market – insurance companies.** Insurance is the business of risk, but where we are encouraged to reduce it, avoid it and fear it, these companies buy it, trade it and make money off of it. We invest in insurance because of a risk of crime, and we pay for premium rises when we make a claim on this service. The question is, do these costs reflect real changes in risk? Richard V. Ericson's

study of the global insurance industry in the aftermath of 9/11 showed that insurance companies 'thrive on conditions of extreme uncertainty' and can foster these conditions to their financial advantage. In other words, the more worried we are, the more we are willing to spend on the legal protection racket.

**3. The media.** Crime pays because crime sells. Well, some crimes sell better than others. Research on media representations of crime shows a consistent pattern: there is disproportionate coverage of violent and sex crimes in newspaper and television reporting. This is true for Scotland in particular as well as the UK in general. Let's not blame it all on the press: we may need crime in ways that Durkheim could not have anticipated. Crime-based TV shows, films and books take up substantial amounts of our leisure time and spending (so good for you, reading this dry piece when you could be catching up on CSI).

**4. Politicians.** Being tough on crime has become the basis of contemporary political capital. A single horrific crime provides a leader the opportunity to convey desirable qualities and appear decisive and go-getting in a way that is not possible when trying to deal with structural problems in the economy or global threats beyond the control of any single nation. Building prisons, passing tougher sentencing laws and promising to put more police on the beat have arguably won governments votes and elections. Realising improvements in the health service, ensuring stable pensions, and providing adequate childcare

for working parents are just as, if not more, complex problems than crime but provide fewer opportunities to demonstrate one's political charisma, as Brown, compared with Blair, is learning to his cost.

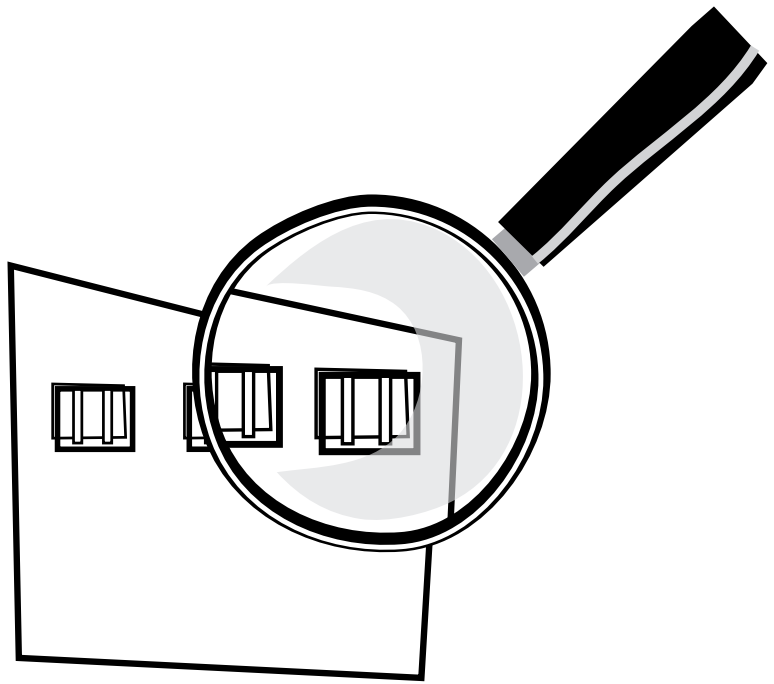
### 5. The police and other criminal justice agencies.

Former President Bill Clinton promised to add 100,000 more police in 1995, Jack Straw sought to recruit 4,000 new frontline officers in 2000, and the SNP promised 1,000 additional police on the street in 2007. When politicians use crime to build up political capital, then the police become beneficiaries of crime. They gain more funding, more staff and more priority in the never ending competition among public services for scarce resources. This benefit accrues to the police as an organisation, where the normative model of organisation is the efficiently run business. Businesses seek growth and market share, and the law and order politics of the last quarter-century has ensured that the police, and criminal justice services generally, have gained significant market share in the public sector market. But sometimes this 'success' has been to the consternation of the winners themselves. John Carnochan, director of Strathclyde Police's Violence Reduction Unit has argued that we need additional health visitors more than we need extra police. Similarly, the Prison Officers Association has expressed opposition to plans for three new 2,500 bed prisons in England and Wales. Individuals who work in criminal justice agencies have learned that reducing crime does not necessarily follow from expanding crime control services.

### The beneficiaries of crime that you didn't know about

**1. FT 500 Companies.** The Royal Bank of Scotland may have reported dismal results in the current economic climate, but is expected to do well out of its financing and half ownership of the Addiewell prison. Other companies on the FT 500 list with stakes in Scottish criminal justice include BT, Serco and Siemens. Siemens? They hold a lucrative contract to supply telephone services for prisoners, so lucrative that a complaint has been made to Ofcom by the Scottish Consumer Council (joining a 'super complaint' by counterparts in Wales and England) about excessive rates charged to prisoners using pay phones, alleged to be seven times more costly than rates charged for use of public phones. Academics have begun to talk about the 'crime control industry' and the 'prison-industrial complex', and these conversations need to be located in the context of globalised, networked society. The business of crime is no longer limited to crime businesses, it has become one of myriad types of investment that allow multinational corporations to diversify their holdings and expand the territories of profit.

**2. Surplus labour.** Mark on a map the location of prisons constructed in the UK since the mid-1980s and a clear pattern emerges: they are almost all built on the grounds of old MoD installations, hospitals, and especially, defunct mining villages. Addiewell, Kilmarnock, and the planned Bishopbriggs prison follow this trend. West Lothian once sought to re-invent itself as part of Silicon Glen but has now got an Inland Revenue call centre in the Bathgate facility vacated by Motorola, and a prison to replace the jobs long lost by the oil shale industry. Public sector employment in Scotland has grown about twice as fast



as private sector employment since the mid-1990s, and while it is difficult to extract the specific contribution of criminal justice workers to this result, it underlines a trend. The public sector, for better or worse, is providing the jobs – as prison guards, probation officers or police – that manufacturing and other industries no longer can.

**3. Universities.** Crime, or more precisely the study of it, provides two major forms of income to academia – postgraduate fees and research funding. And this not only makes me grateful, since it is the reason that I have a job, but it makes universities increasingly interested in developing criminology programmes, degrees and centres. There are millions of pounds at stake just for Scottish Universities in the study of crime. This merits some self-reflection: are we profiting from misery? Are we supporting a criminal justice-industrial complex? I would not like to think so, and personally feel our contribution is worthwhile when our research exposes the hidden implications of this industry or allows for better understanding and therefore responses to the problems of crime and victimisation. However, research provides the evidence in political debates and by acting as the information producers in this field we cannot hold ourselves innocent nor above these legitimacy wars.

When it comes to making money off of crime, the usual suspects are easy to spot, but the net spreads wider to include groups and institutions we think of as working for the common good. There are others that could be added to this discussion – the voluntary sector organisations dependent on government contracts to provide services to those involved in the criminal justice system. Even the reform groups that seek to limit the growth and damage of criminal justice are beneficiaries to the extent that their funding relies on crime remaining in the public imagination. Speaking as one implicated in the crime business, I would argue that we have got a responsibility for our involvement to work for the good. But sometimes it is not entirely clear what doing good means. ■

*Dr Sarah Armstrong is a Senior Research Fellow with the Scottish Centre for Crime and Criminal Justice Research, and has recently received a research grant to study prison policy-making.*

# laptops, not chibs

Crime writer Reg McKay explores organised crime in Scotland and finds much of it in the 'grey zone' between the vicious and the legit

“Money.” It was a short, simplest answer to a question that has plagued us forever. The question:

“Why commit crime?” The man answering the question wasn't a tenner bag/chib carrying/pimping street girls type of criminal. This man wore expensive clothes, drove a Mercedes 4x4 and preferred his wine vintage not fortified. He hated the term and never used it but all the same he was a gangster. One of Scotland's army of organised crime mobsters.

Do we have organised crime here? We should ask since for decades strong voices have been telling us we don't. Like the cops. Senior officer after senior officer has said: “Organised crime here? Nah, disorganised crime. That's what we have.” One group listened and nodded in agreement - organised gangsters themselves. Strange bedfellows? The police were trying to play down that aspect of crime, so as not to glamorise it. The street faces were trying to play it down too so as not to attract attention. They were both lying and they both failed. The police publicly changed their minds last year with the first meeting of Scotland's Serious Organised Crime Taskforce, a gathering of politicians, top cops and lawyers. High time some might say. We're more Capone than Chicago. Always have been.

They are right in one thing; organised crime here doesn't have the strict structures of the Mafia or the Triads yet that doesn't mean it isn't effective or organised. Exactly the opposite as we live in one of the most crime-ridden developed countries on the planet. All the cops maybe did was to help modernise how people get into that game. No more the classic Arthur 'The Godfather' Thompson route. Men like him started with brute force then used their brains, slowly climbing step by step from working the doors to owning to owners. It was a hard life leaving its scars writ large across their phizogs. Yet Thompson taught the world of crime a major lesson. Money - get it fast, any way you can, the more legal the better.

He wouldn't have used the term but running a crime business means risk management. Put simply, always try to minimise the risk but maximise the profit. So mobs move from trafficking heroin and coke with its heavy jail sentences to smuggling cigarettes and booze with its high profits and low jail time or even fines they laugh at. Another simple way of minimising risk and maximising profits is to invest in legal affairs. A short while ago I sat in an expensive city hotel with three older men who looked like they belonged in that sumptuous setting with its discrete waiters and thick carpets. They did. These were men who moved millions of pounds in and out of companies. The real power behind some household firms' names selling us anything from holidays to homes. They weren't there to tell me what they were doing now - that spoke for itself - but how they got there. Tales of World War II as toddlers spent in overcrowded single ends in crumbling tenements were almost glossed over in a matter of a fact way.

There was no danger of Monty Python cardboard box-type tales here. Helping out the black market boys cutting a hole through post war rationing, watching a pub or two and being the young muscle to protect the moneymen, their life stories were different but similar especially when it came to their plans. All headed towards legal business as soon as they could. That is, as soon as they'd made their bankroll of illegal dosh. Twilight years spent in what Paul Ferris calls the “grey area”. With one foot in the gutter another on the carpet, they occasionally had to respond to the still-tight grip of the underworld. Then gradually delegation and more delegation 'til the distance between them and their pasts were gone, 'til they stood clean - apart from their dosh, that is. That all came from crime.

These were the graduates of organised crime, the men who made it through. Men who would pass their monies to companies owned by other people, often their children or grandchildren. It's all they had sold smack, shot enemies and did jail time for - a family without worries but with good standard of life. When they told me a few concerns their families had owned at one time or another I realised I could spend a full day in any city centre shopping, drinking, eating, being entertained, booking holidays, seeing the optician, buying a car and not find a place that wasn't created on the basis of dirty dough. Their kindly faces

showed a scar here and there or a Roman nose that was really an old, badly set break. In spite of a couple of them admitting to a bit of plastic surgery some of their battle scars are still there to see. Yet that heavy stuff isn't necessary anymore. You don't need much muscle to pull a trigger.

In Scotland we rightly rant about our terrible murder figures - around 120 per year - and half of them still by the knife but most of those are classic acts of punters stoned or pissed and carrying an argument too far. Men carrying knives are dangerous but an organised face killing us? No chance. Why would they? What is there to gain? Twenty years in jail that's what. No money just pain. Whether we are the Murder Capital of Europe or not, it remains true that we are most likely to be killed by a partner, spouse or pal using an ordinary kitchen knife, not some Rambo-style killing blade or a Mac-10. Among the organised mob they now talk of men with lethal thumbs. Need to sort someone out? A mobile 'phone text will do the trick - as long as they have the right numbers on their 'phone. Cunning, cold hearted, connected and creative - that's what makes the best organised crimesters now. Just like the top business people. And they have more than that in common.

As Scotland implements its seizure of assets laws where people are forced to prove how they can afford their quality of life we are missing something - big names. Apart from Jamie 'Bull' Stephenson and maybe Russell Stirton, brother-in-law of the infamous McGovern clan, the rest whose assets have been

**Just as in some of the conglomerates we buy our goods from, caution, planning and scale make those with the real power anonymous to us**



seized are decidedly low level. There are good reasons for that - sometimes the cops don't even know who is behind an operation. Why? Just as in some of the conglomerates we buy our goods from caution, planning and scale make those with the real power anonymous to us. The first two have always been around crime but the last has reached new heights. Take the bungled effort to traffic some cocaine direct from Colombia in bales of raw rubber just a few years ago. When the gang started to cut open rubbery bales in a warehouse in Ayrshire Customs and cops jumped on them. They discovered £25 million to £50 million of the best marching powder. Had the ploy worked what would have happened to that money? It would have been invested, of course, and the more legal the enterprise the better.

It's not just drug trafficking that carries big profits. Just look at some of the estimated annual profits for crime in Scotland. Smuggling cigarettes - £1 billion, VAT carousel frauds - £800 million, credit card fraud - £1.5 billion, smuggling booze - £400 million, identity theft - £200 million. Almost all of these huge scams are run by organised teams, need the punters to buy their goods and the profits will be poured back into other enterprises that sell goods to the public, often through legal, High Street sources.

Thomas 'The Licensee' McGraw died last year of a heart attack in his bed. His total legal estate? £621.02 and not enough to pay for the sandwiches after his funeral. His legal companies' worth in Scotland only all registered under other people's names? £30 million. His assets abroad? His illegal assets? Many more millions certainly. Where were they invested? In building companies, mobile 'phone firms, taxi ranks, pubs, clubs, shops, saunas, fitness clubs and almost anything else that made him a few quid. It is almost impossible to conceive of anyone having lived in Glasgow in the last twenty years who hasn't bought something from one of his legit firms and given The Licensee even more cash. When The Godfather died in 1993, also of a heart attack in his bed, he had £8,000. They couldn't count his three houses, numerous pubs, sawmills, demolition businesses, carpet companies and all the rest. Why? He had hired good accountants.

Long gone are the days when organised mobsters hoard their loot. Just lying there it could be found and, worse, it was doing nothing, not earning a bean. No one thinks that way in organised crime today. No one apart from the lowliest soldier,

the guy who sells tenner bags on street corners or the driver who carts lorry loads of smuggled goods across Europe for a few hundred quid. Take the coke in the rubber bales heist. The cops had to work hard to get the gang's main man who had shot off to the continent after they were rumbled but when they did whom did they have? An ordinary, small businessman. Can almost anyone arrange a £50 million load of cocaine to be delivered from Colombia? Like any business it all depends on whom you know. Our rubber bale man certainly had the help ■ a big mover and shaker, probably never met him and certainly won't know his name. The person in question will have taken a business gamble based on the profit versus risk ratio of the smuggling lark, just as he does every day deciding to invest in one straight enterprise or another. It is almost certain that he has no criminal record and is an establishment figure.

New technology helps as well. In a cyber world where a school kid knows how to pretend to be someone else from somewhere else while communicating with someone from anywhere it is ideal for the world of crime. Oxford graduate Howard Marks had trafficked huge amounts of cannabis throughout the world for decades. Caught and jailed, when released one of his first stops was Edinburgh to meet up with Kevin Williamson then running Rebel Inc. Needing to show Howard something that was on his computer, Kevin apologised, thinking Howard's years in jail meant the technological revolution had bypassed him.

"How do you think I trafficked tonnes of dope between every country in the world?" Howard had asked. Every morning in life he woke to a wall of PC screens and a room full of 'phones. That is organised crime - using every technological development to improve their practice.

Is it always a bad thing? Some people don't think so. Like the moonshine dealers in the US who became legal millionaires when Prohibition was lifted. The Kennedy dynasty anyone? In Russia after the fall of USSR they gave their organised mobsters an unusual name - The New Entrepreneurs. Peddling in Afghan heroin had made them rich and they were the only ones with the cash to develop the economy. In many ways it is no different here.

As the organised mob would simply say, it's business.

**Reg McKay has written fifteen books on crime. His next book 'McGRAW - the untold story of The Licensee' will be published in mid October.**

# unusual suspects

Hazel Croall explores the implications of white collar crime and shows that in fact the image most people have of who breaks the law is confused

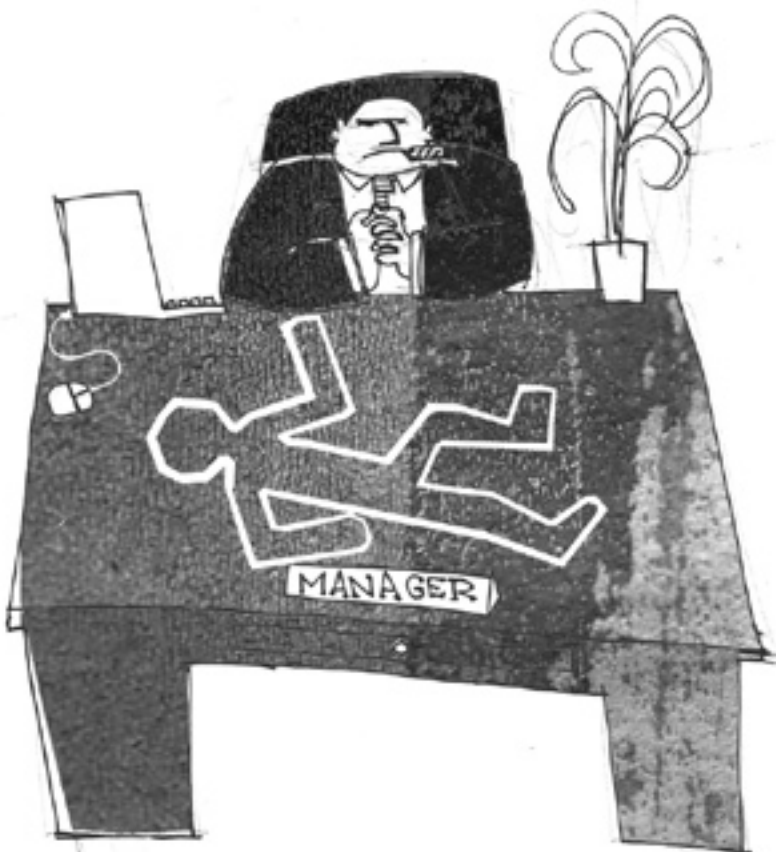
White collar crime, which includes fraud and crimes committed by corporations, businesses and professional groups, is generally excluded from the zero tolerance approaches and calls for tough punishment attracted by what is popularly represented as 'crime'. Yet the high toll of death, disease, injury, economic loss and damage to the environment which these crimes cause has consistently been argued to exceed that of other crimes. This article will firstly explore the significance, in the Scottish context, of these offences, before turning to consider how more innovative approaches could be adopted in an effort to control them.

The economic impact of these crimes is considerable. Fraud has recently been said to be increasing and to cost every person in Scotland £330 each year (Scottish Government Press Release 12/5/08), and that, says Her Majesty's Inspectorate of Constabulary for Scotland in its 2008 report, excludes the cost of tax evasion. This, along with many other forms of fraud, is extremely difficult to estimate, and the report accepts that the real extent of fraud is impossible to assess. What is certain is that Governments have far fewer resources at their disposal as a result of the many and varied tax evasion schemes of wealthy individuals and corporations for whom avoiding taxes is good business practice. The Scottish economy, like any other, is also vulnerable to global trends and spectacular company frauds, like that of Enron, have a rippling effect and reduce the legitimacy

of business and finance. It is also notable that United States agencies are investigating the criminal aspects of the current 'credit crunch' (**Herald** 25/06/08). Other major losers from fraud include the National Health Service, which loses at least 1 per cent of its annual budget to fraud – a situation prompting the Scottish Government to proclaim a policy of zero tolerance. While fraud in this area is often associated with 'scroungers' and patients falsely claiming free prescriptions, professional groups are also involved. Examples reported include dentists claiming to have used precious instead of non-precious metals in fillings and falsifying claims for NHS work; opticians claiming for more expensive lenses than have either been needed or supplied; pharmacists claiming for expensive brand name drugs when cheaper alternatives have actually been dispensed, and GPs, who have prescribed these drugs and been found to have had 'inappropriate' relationships with representatives of pharmaceutical companies (**Sunday Herald** 26/01/08).

Corporate activities have also been associated with deaths, injuries and diseases, documented in a recent book by criminologists Steve Tombs and Dave Whyte (Tombs and Whyte 2007, **Safety Crime**, Willan Publishing). Deaths alone easily exceed those attributed to homicide. Scottish examples are all too well known. They include the deaths of 21 old age pensioners in Wishaw in 1997 following the failure, on the part of the butcher, John Barr to follow routine food preparation procedures; the death, in 1999, of the Findlay family in Wishaw in a gas explosion caused by the failure of TRANSCO to maintain supply pipes, and the death of six workers in the Stockline explosion in May 2004, again caused by a failure to check gas safety. 2008 saw the twentieth anniversary of the 167 deaths aboard the rig Piper Alpha, amidst reports that despite many subsequent changes, there is still much to be done to make oil rigs safe, a grim reminder of which was the death of two workers at the North Sea Brent Bravo platform in September 2003. To this high toll must be added the individual deaths which far less often receive headline publicity, and countless injuries, stress and occupationally caused diseases in the workplace. Consumers can also be injured and made ill as a result of contaminated food, dangerous toys, about which warnings abound at Christmas, inadequately regulated chemicals in household cleaners, toiletries and cosmetics, and the as yet unknown long term consequences of additives in food.

Environmental crime is also a major problem, and its impact includes the death of wildlife from illegal emissions of chemicals and farm slurry, the contamination of drinking water, sea water and beaches and its effects on the volume of damaging emissions. Scottish Water has been described as Scotland's 'most frequently prosecuted environmental criminal' having amassed 16 prosecutions in just over



three years. And these, argue Friends of the Earth, are merely the 'tip of the iceberg' (**Sunday Herald** 9/02/08). In addition the Scottish Government itself faces legal proceedings from the EU in respect of this and other matters including conservation, the quality of beaches and failures to meet pollution targets (**Observer** 4/05/08).

In addition, a whole host of questionable corporate activities affect us daily including bargain offers which aren't bargains, meat and food which contain higher than permitted amounts of water and additives, and misleading advertisements. These very often lie on a fine line between honesty and dishonesty, legality and illegality. Phrases such as 'healthy', 'traditional', 'low fat' or 'organic' are often abused and pictorial images of foods often give a false impression of the size of portions or the origins of the food. Power companies have been notorious for 'aggressive marketing' on the part of sales representatives on the doorstep, persuading consumers to change their supplier on the promise, later unfulfilled, of large savings. The unsolicited phone calls which many companies now make, again promising savings, can be seen as intrusive and as examples of what could well be called anti-social business behaviour.

Many of these activities, including the most serious, are not, of course, widely or popularly represented as 'crime'. Incidents which cause single or mass deaths are routinely presented as 'accidents', a description which, by implying inevitability and the operation of chance, all too often conceal a long history and indeed a culture of neglecting regulations. Phrases such as 'misselling' or 'wrongdoing' are often used to describe what are, in effect, fraudulent or corrupt practices. Victims may not be in a position to detect offences and, even when harm is done, very often do not report them as crime. A large number of offences, therefore, are not fully investigated, not prosecuted and, as will be seen below, leniently sentenced. Many are not the province of the police but a host of enforcement agencies such as the Health and Safety Executive, Environmental or Trading Standards Officers, who suffer from declining resources and very often prefer to issue warnings or advice rather than recommend prosecution. The Piper Alpha case was never prosecuted despite evidence of breaches of regulations.

Fines are the most widely used sentence but are often seen as far too small. Most recently, two companies responsible for the death of a baker in Maryhill who was hit by a faulty tail-lift were fined £33, 500 (**BBC News Scotland** 5/11/07), and a consultation paper for a proposed Bill on equity fines cites the average fine for offences related to injuries or deaths of employees between 2001 and 2005 in Scotland as £17,482 ([www.scottish.parliament.uk/s3/bills/MembersBills/pdfs/CriminalSentencingEquityFinesConsultation.pdf](http://www.scottish.parliament.uk/s3/bills/MembersBills/pdfs/CriminalSentencingEquityFinesConsultation.pdf)). This follows considerable criticism of, for example, the total fine of £200,000 given to Stockline in 2007, widely reported as amounting to a mere £44,000 per life (**Scotsman** 29/08/07). Even the £15 million fine given to TRANSCO, while hailed as a 'record' UK fine, could be criticised as amounting to a mere four per cent of the company's profit. In these cases, victims and their relatives often complain about a lack of justice.

In part this reflects the use of regulatory legislation such as the Health and Safety at Work Act, widely associated with lower fines. For cases resulting in death, an alternative avenue is to prosecute for corporate homicide or corporate killing, which, however, is notoriously difficult to do, due to the legal requirement that a company can only be prosecuted if an

individual director can also be identified as culpable – a test which is increasingly irrelevant given the size and complexity of corporate decisions. Many jurisdictions, including Scotland, have recently reviewed this legislation, and an expert group made several recommendations ([www.scotland.gov.uk/Publications/2005/11/14133559/35592](http://www.scotland.gov.uk/Publications/2005/11/14133559/35592)). In the event however, the then Scottish Executive decided, controversially, that this was a reserved matter and the new Corporate Manslaughter and Homicide Act 2007 covers the whole of the UK. This Act, while containing some improvements, did not go so far as the expert group had recommended in moving away from the doctrine of identification, does not include provisions for the prosecution of individual managers and did not at the time consider sanctions. These, amongst other issues, have been the subject of calls, by the STUC and other groups, for new legislation for Scotland, and indeed, Cathy Jamieson, Minister of Justice at the time of the rejection of Scottish legislation is now said to support it (**Herald** 21/08/08). At the same time, members of the current government, who supported legislation while in opposition, appear reluctant to re-open the issue.

The issue of sentences continues to be debated. Monetary penalties are generally regarded as too small and other jurisdictions have introduced a wider range of innovative measures. These include, for example, requirements to name and shame companies, provisions for corporate probation and corporate community service, under which the resources and knowledge of corporations can be used to the advantage of victims and the community, thus providing elements of restorative justice. These, also recommended by the Expert Group, have attracted widespread support and it is not yet clear if the (albeit limited) range of penalties envisaged for England and Wales will be introduced in Scotland. These include proposals to increase monetary penalties by relating fines to a company's turnover, and the recent consultation paper, referred to above, proposes the introduction, in Scotland, of equity fines, related to the overall value of the company. In addition, this paper, which ensures that the issue of sentences remains on the political agenda, also proposes to introduce company background inquiry reports, necessary for courts to establish accurate information about the company's finances and their history of compliance. These proposals are limited, however, to monetary penalties and relate only to serious offences. For other offences, The Regulatory Enforcement and Sanctions Act of 2008, which encompasses a very wide range of regulatory areas, does include the possibility of equivalents to probation or community service orders, but so far these are only seen as civil, not criminal, sanctions.

This reflects the trend, across many areas, to secure 'better regulation' by reducing the amount of 'burdensome' regulations. Indeed the proposals in the Regulatory Enforcement and Sanctions Act are based on the assumption that the criminal law is over, rather than under-used against businesses. Despite this however, it can be argued that there is considerable scope for the Scottish Government to consider new and innovative proposals for both legislation and sentencing which might go some way towards meeting victims' complaints and recognising the significance and harm associated with white collar and corporate crime. ■

*Hazel Croall is Professor of Criminology at Glasgow Caledonian University and served as a member of the Scottish Executive Expert Group on Corporate Homicide*

# punishing corporate crime

Bill Wilson and Eric Swanepoel make the case for 'equity fines'

An equity fine is a replacement for the standard monetary fine. Instead of imposing a monetary fine, the Bill would allow courts the option of ordering a convicted public company to issue a set number of new shares. These would be sold and the proceeds paid to the court. Equity fines have generally been discussed in relation to health and safety offences. There is no reason, however, why this type of fine should not be also used to punish other offences, such as environmental crimes and fraud.

## Why are equity fines and independent financial reports needed?

There are several reasons for introducing alternative penalties for crimes committed by companies in Scotland. As Louise Adamson, of families Against Corporate Killers, one of the organisations supporting the Member's Bill says, "An annual work-related death toll in excess of 1,600 is tragic testimony to the fact that the current system of fining companies for health and safety offences has not served as strict enough punishment or strong enough deterrent". The low (and therefore non-deterrent) level of fines imposed upon most convicted corporations is illustrated by, for example, the HSE figures for fines imposed by Scottish courts between 2001 and 2005. For criminal activity which resulted in an injury or fatality the average fine was £17, 483. This is a low figure, but when one looks only at those fines imposed when there was a fatality the figure is little improved: £27,761. Imagines the fury of the tabloids if a £27,000 fine were imposed upon an individual found guilty of murder!

The derisory level of fines is even clearer when the median figure is considered. The median fine is the value at which half of all fines imposed lie below, and half lie above. The great advantage of the median, in contrast to the average, is that the results are not skewed by a limited number of very high or very low results. For cases resulting in death or injury, the median fine was £4,000. Considering only those fines imposed when there was a fatality, the median was £12,500. In other words, in half of all cases resulting in a conviction, in which a fatality occurred and for which a fine was imposed, the value of the fine was £12,500 or less.

There are various reasons for the low level of fines, two of which are of particular interest in relation to the proposed Member's Bill. The first of these reasons is that judges may be underestimating the level of fine the company can reasonably pay. A significant failing of the present system is the lack of an independent report into a company's financial situation. Prof. Hazel Croall, in a paper prepared for the previous Scottish Executive's Expert Group on Corporate Homicide, recognised this and suggested "that courts should routinely receive a form of Corporate Inquiry Report and should, where necessary, have powers to appoint a relevant expert to provide a professional assessment, paid for where appropriate by the company itself". It is instructive to compare the present law and procedures for companies with that for individuals. When an individual is brought to court for sentencing, social and other background reports are provided as a matter of course. In the case of companies, judges rely on the honesty of the convicted party.

This is roughly the equivalent of the judge looking the prisoner in the eye, sternly wagging his finger at the convicted felon, and saying in a severe (if now downright angry tone): "You are a very naughty boy. Now, before I impose sentence, if you could just tell me what level of fine you can afford to pay?". Company reports? We rest our case!

The second significant reason why judges might impose derisory penalties is exposed by Lord Brodie's statement when passing sentence in the ICL Stockline case. He noted: "There is then to be taken into account the ability of the companies to pay a fine and yet remain in business and provide employment". Lord Brodie was concerned to avoid punishing victims by putting them out of work. (Note, however, that the equity fines element of the present proposal would only apply to public companies and so would have had no direct bearing on the ICL Stockline case. This element is envisaged as a simple but significant first step to improving the accountability of companies, within the restrictions of devolved legislation. More elaborate legislation, conceivably extending the concept to private companies, might follow.) That this is not an isolated example is clear from the Canadian 'Westray' Bill (C-45) on corporate homicide. 'Westray' explicitly instruct judges to take into account, when deciding the size of fines, "the need to keep an organization running and preserve employment". This, then, is one of the failings of monetary fines: the very real risk that the victims of the corporate crime become the victims of the punishment. Note also that this can occur even if a convicted company does not go out of business. Companies, when faced with large monetary fine, may pass this onto their employees by instituting a wage freeze, by reducing their conditions and benefits, or simply by reducing the size of the workforce.

By contrast, equity fines specifically target the individuals who most benefit from the cost-cutting exercises which have resulted in death or injury. The aim of equity fines is to impose shareholder responsibility: to encourage shareholders to hold senior management to account and to encourage individuals (and other organisations), prior to investing in a company, to check if that company has any prior convictions. The deterrent effect of such penalties is likely to be considerable.

## Who will be affected by the equity fines?

Aside from the effects already discussed, the following individual groups or organisations may be affected. Public limited companies convicted of criminal offences will obviously be directly affected. Other companies — those that take their responsibilities to their workforce, customers and the environment seriously — should benefit from any process which discourages their competitors from attempting to gain a cost advantage by bypassing the present laws. Those who hold shares in companies convicted of criminal offences will see the value of those shares decline. Shareholders and potential shareholders, in general, will be motivated to invest in companies that comply with the law and also to make representations to companies that they take action to reduce the chances of being convicted of criminal offences.

It might reasonably be asked: 'What if company employees receive shares as part of their remuneration? Would this not diminish the perception that justice is being done?'. There is a possibility that this would be the case. However, it can be argued that employees **knowingly** work for companies that issue shares as part of their remuneration. If they additionally **choose to retain these shares** (and potentially share in profits), then, like other small shareholders, they must expect to be held accountable for a company's activities to the extent of the number of shares they hold. This argument could be extended to consider criminal acts such as that that occurred in Bhopal. In instances such as this there is clearly no reason why shareholding employees in Scotland should not suffer the same penalty as non-employee shareholders.

Directors of public companies, who either hold shares or receive remuneration in the form of shares, will be affected in the same way as other shareholders, and, in addition, may be further motivated to make sure that their companies are not convicted of criminal offences because of the damage their reputations might suffer if they were perceived to be responsible for a significant decline in their companies' share prices.

### The myth of capital flight and deterrence to investment

It might be argued that introducing equity fines could result in either a flight of investment capital from Scotland or a reduction in Scottish inward investment. Available data do not suggest that this is likely. Whilst there is no direct evidence pertaining to the introduction of a system of equity fines in other jurisdictions, conclusions can be drawn from the performance of economies following the introduction of other forms of legislation intended

to reduce corporate offending. Evidence from Statistics Canada (Canada's national statistics agency) shows no appreciable impact upon inward investment following the introduction of the 'Westray' Bill. Statistics Canada noted that "foreign direct investment in Canada hit \$448.9 billion at the end of 2006, up \$41.3 billion, or 10.1 per cent, from the end of 2005. This was also the fastest percentage gain since 2000. Comparing Canadian inward investment with that of other nations, over a period before and after the introduction of the bill, again gives no indication of a reduction in inward investment." (The consultation document expands on this.)

Not only is there no evidence that corporate homicide legislation negatively impacted on onward investment, it might even be postulated that new legislation has the potential to have the opposite effect. According to financial consultancy Celent, "The SRI market in the US will reach \$3 trillion by 2011, and the European SRI market grew from €1 trillion in 2005 to €1.6 trillion in 2007". The potential advantage of a Scottish ethical brand image is great indeed. In summary, the proposed Member's Bill is a relatively simple piece of legislation that might have a big effect in deterring corporate crime in Scotland, thus saving lives, protecting the environment, reducing corruption and, not least, promoting Scotland as an innovative moral force in the world. Voltaire said: "We look to Scotland for all our ideas of civilisation". The Criminal Sentencing (Equity Fines) Bill might, we hope, be a small but significant contribution to restoring this statement to currency. You can read more at [www.billwilsonmsp.org](http://www.billwilsonmsp.org). ■

*Dr Bill Wilson is SNP MSP for the West of Scotland and Dr R. Eric Swanepoel is a former ecologist, now parliamentary researcher for Dr Bill Wilson and freelance writer*

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- Give prudential borrowing powers to health boards
- Strengthen the PPP Staffing Protocol

To find out more about the campaign to keep Scotland's public services run by the public, contact UNISON at our stall or - [d.watson@unison.co.uk](mailto:d.watson@unison.co.uk), 0870 7777 006. [www.unison-scotland.org.uk/revitalise](http://www.unison-scotland.org.uk/revitalise)

# charity on the cheap

Gary Fraser examines the politics of the voluntary sector and highlights the costs of normalising a corporate-style, neo-Liberal welfare state

The voluntary sector has been defined as comprising “independent, self-governing bodies that do not distribute profits but are run for the benefit of others and the community” (Poole, 2007). Voluntary sector organisations are run by a mixture of paid staff and volunteers and draw on a range of resources to keep them economically viable; these include individual and corporate donations, state grants, contract finance, tax relief due to their charitable status and lottery funding (Poole, 2007).

The recent strike by workers at the homeless charity Shelter has highlighted issues concerning exploitation in the voluntary sector. According to Shelter management, the charity needs to be more competitive in the public services delivery market. Furthermore, it is not the first time that Shelter management have attacked wages and conditions in order to win contracts to provide public services. The attitude of Shelter management has surprised many; in some statements they have sounded more like corporate-style bullies than managers of a charity.

Ken Loach, whose 1960s film *Cathy Come Home* played a part in establishing Shelter as a campaigning organisation, likened the charity to a QUANGO working for the state, rather than a critical independent organisation. The public services delivery market involves organisations like Shelter competing to provide services to local authorities, primary care trusts and government agencies. The markets that have been created in the public sector are uneven: at the top end of the market, commercial firms have profited from the marketisation of public services, particularly in relation to the Private Finance Initiative (PFI). However at the other end of the market, relatively few opportunities exist to make a substantial profit which obviously means that private firms do not tender for contracts. Consequently, a vacuum has been created in the delivery of public services that has been occupied by the voluntary sector.

It is in this context that the voluntary sector has been called upon by government as a means of providing low cost public services. What is taking place is a neo-liberal restructuring of the voluntary sector that is related to the political project of ‘rolling back the state’. Neo-Liberalism is not necessarily anti-welfare. In Britain during the previous two decades, both Conservative and Labour governments have attempted to restructure the British welfare state in order to make it compatible to neo-liberal ideology. New Labour has referred to this process as ‘public sector reform’ or ‘modernisation’. Forming the core of these ideas is a commitment to establish a neo-liberal welfare state.

Social welfare in one form or another has always existed. What is called the voluntary sector today is historically rooted in self-help movements, charity and philanthropy. In Britain, workers

co-operatives, mutuals, friendly societies, social welfare clubs, credit unions and the co-operative movement are all examples of assistance and relief provided to those excluded from, or by the market. The voluntary sector was sidelined as the major provider of welfare after the Second World War and by the 1950s, the welfare state was firmly established in British society.

This era in British politics has been referred to as the ‘social democratic consensus’, or ‘post-war settlement’. The ‘post-war settlement’ lasted for the best part of 30 years. There is not the space here to discuss why it collapsed, although it is important to note that the destabilisation of capitalist economies in the mid-1970s, precipitated by a collapse in oil prices, did much to undermine the Keynesian economic programme. In addition, the election of the Conservative Party in 1979 brought about a new era in British politics: the age of neo-liberalism, sometimes referred to in Britain as ‘Thatcherism’ had begun.

The Tories restructured the provision of social welfare in Britain. Neo-liberals argued that the state had an unfair monopoly over the provision of welfare services and called for a more pluralistic approach to service delivery; a political transformation was taking place whereby the state relinquished much of its direct welfare provision to the private and non-profit sectors, which it would in turn work to enable, finance and regulate (Poole, 2007). As a consequence of neo-liberal reforms, the welfare state was opened up to internal markets, a process referred to as marketisation. The reforms

meant that the state was becoming a purchaser rather than a provider of services.

The election of a Labour government in 1997 did little to reverse the declining role of the social state. New Labour fully embraced a mixed economy of welfare encouraging various stakeholders and partners to become involved in service delivery. New Labour has pushed reforms to much deeper levels than Thatcher or Major. Under a Labour government, frontline services have been contracted out to the cheapest provider. Moreover, as a consequence of PFI, the private sector now owns assets that were once the property of the public sector, e.g. schools, hospitals and community centres. What New Labour has not privatised they have been keen to transfer over to the voluntary sector.

In 1991 there were around 98,000 registered charities in the UK with an expenditure of around £11.2 billion; by 2001 the number of registered charities had risen to 153,000, with a collective expenditure of over £20 billion (Poole, 2007). In Scotland, the social economy in which the voluntary sector operates has an income which exceeds £2 billion, around 4 per cent of Scotland’s GDP. Furthermore, the sector employs 100,000 staff and 700,000

**Whilst auditing has stimulated “organisational games”, designed to meet the auditors own indicators for grading, it is less clear that they contribute directly to improving public services.**

volunteers. The rise of the voluntary sector runs parallel to the decline in services that were once provided by the state. The former Prime Minister Tony Blair described the voluntary sector as providing high quality, but lower cost products and services. Moreover, he added that he wanted the sector to strive for a public service ethos with strong business acumen.

The voluntary sector is the preferred option of neo-liberal policymakers because of its role in delivering public services cheaper than the state, which is largely due to the voluntary sector having lower labour costs. The sector has come under intense pressure from government to become more business-like in its agenda. The new business culture has been encouraged by a policy context that is driven by central government which involves competitive tendering and contracting. A market discipline is being established in the provision of public services with providers competing with one another for welfare contracts.

Becoming more efficient in governance is a stated aim for the voluntary sector. In practice, this has required embracing the ethos of New Public Management (NPM). NPM involves consolidating neo-liberal values within the everyday culture of voluntary organisations. The main features of NPM include an emphasis on auditing, measurement, calculation and quantification (Mooney and Law, 2007). Auditing has given rise to a culture of distortion and spin in the delivery of public services creating a plethora of middle managers obsessed with the PR management of public services.

The outcome of continuous audits is a focus on organisational not social goals; organisations produce paper trails of achievement and successes that bear little relationship to real events taking place on the ground (Hughes, et al, 2002). Mooney and Law note, that whilst auditing has stimulated "organisational games", designed to meet the auditors own indicators for grading, it is less clear that they contribute directly to improving public services. The PR management of public services has resulted in seemingly endless consultations with various stakeholders and partners.

The management of public services and voluntary sector organisations like commercial businesses has resulted in a decrease in morale amongst the workforce. Everyday working life in the voluntary and public sector has become more routine, standardised and subject to continuous regulation and monitoring. Furthermore, increased employee surveillance by management has been achieved as a consequence of performance indicators, staff reviews, Quality Assurance documentation and rigorous inspection regimes (Mooney and Law, 2007). The result of all these reforms has been a 'proletarianisation' of professional workers who once had a degree of autonomy in their work (Cumbers and Whittam, 2007).

Many workers, who regard themselves as professionals, are now subject to labour market conditions that require flexibility, which has helped create a culture whereby short-term contracts have become normalised. Furthermore, NPM has encouraged a routinisation of the work process that is contributing to a 'spectre of uselessness', now gripping professional workers as it did manual workers before them (Mooney and Law, 2007). Workers who were once inspired to choose a caring vocation have now found themselves caught in the multifarious webs of government bureaucracy, audits, marketing and target setting.

This article has highlighted the neo-liberal discourses that inform the contemporary policy context which surrounds the voluntary sector. A broader change is taking place in politics: it is the end of an era in many ways, creating new challenges and opportunities for the left. In the United States, the presidency of George W. Bush – responsible for so much bloodshed – will come to an end next year. In Britain, Tony Blair has gone and Gordon Brown is increasingly looking like a lame-duck Prime Minister. Moreover, the era of New Labour is coming to an end: in Scotland, the SNP have broken Labour's hegemony over the Scottish working class. In a British wide context, there is the real prospect of a Conservative government taking power.

In relation to the voluntary sector, the Tories want to extend the influence of charities in providing public services. David Cameron has a vision of charities becoming more competitive and being paid the market rate for delivering public services. In a recent interview with the Guardian he stated: "...the state can't run British society properly...the state takes responsibility away from people, families and communities, and a lack of social responsibility is the fundamental cause of the social breakdown we see all around us". Cameron then calls for more non-state collective provision, adding that "family breakdown, anti-social behaviour, drug and alcohol abuse are best dealt with by the voluntary sector".

It is clear then, that a Tory government would not mark a qualitative shift from the policies pursued by New Labour. It is important to note however, that the neo-liberal restructuring of the voluntary and public sector, whether it be implemented by Labour or the Tories, has not been uncontested. The neo-liberal agenda involving intensive managerialism and auditing runs right throughout the public sector: teachers, social workers, community workers, university academics, childcare workers, NHS staff and many more have all suffered from neo-liberal reforms. Consequently, there is widespread frustration and anger which has occasionally resulted in industrial action. Furthermore, the recent dispute by Shelter workers creates an opportunity to link the struggles of the voluntary sector to resistance taking place in the public sector.

However, it is not just enough to provide a critique of neo-liberal welfare; socialists and progressives also need to engage in a discussion about what an alternative welfare state might look like? In this discussion it would be a mistake to romanticise the past: it should not be forgotten that the 'post war consensus' involved a welfare state that was 'top-down', overly bureaucratic and patriarchal. New forms of welfare need to be participatory, enabling and inclusive. Moreover, there needs to be a return to the ethos of public service and a shift away from the language and practices of the market.

As for the voluntary sector, there should be in the short term, a minimum of four-years' funding for all organisations providing social services. In the longer term, services that were once provided by the state need to be returned to local authority control. This would require a complete rethinking of the role of local government. The voluntary sector still has a part to play, not as entrepreneurial business endeavours providing public services on the cheap but as independent campaigning organisations providing political voices to some of the most marginalised groups in our society. ■

***Gary Fraser is a Community Education worker and is planning a research degree on managerialism and its impact on public and voluntary sector workers***

# meta-motivations and mucking in

## Michael Price explains how the Eigg experience shows you can't measure motivation

The people of the Highlands & Islands of Scotland have long been subject to the historical legacy of land clearances and the subsequent shift from subsistence livelihoods to wage labour resulting from the Industrial Revolution. Land and community were traditionally part of the collective identity of the region and interwoven within people's working lives. However, from the latter part of the 18th century onwards, land was no longer seen as a universal right for every family in a clan kinship group: it came to be seen as a means of production that was to be combined with appropriate amounts of labour and capital to maximise production. This mindset was behind the eviction of thousands of residents of the region intended to clear the land for sheep farming. It is estimated that the population of the region fell 38 per cent between 1841 and 1951, due in part to starvation from the potato blight and the opportunities for people to move to urban centres and find work following the Industrial Revolution. This exodus to urban centres and abroad to colonised nations of the Empire brought with it a profound shift in work ethic that would sow the seeds of individualism and materialism that define many communities today, not only in Scotland but throughout most societies influenced by modernity.

The qualitative elements of people's livelihoods found no place in this new mode of social organisation as profit maximisation took precedence over everything else. What once was a cornerstone of people's identity became something unpleasant and dehumanising: one of the core claims of this research is that people often find it difficult to derive a sense of meaning and purpose in the work that they do. Several interviewees in this research cited the desire to 'escape the nine-to-five routine' as their main motivating factor in coming to Eigg. The origins of classical economic thought lend some insight into the forces mentioned above. However, basic assumptions about human beings underpinning this thinking fail to account for the non-economic aspects of our lives. Adam Smith's concept of 'Homo economicus' suggests that we are primarily economic beings with a 'natural propensity to truck, barter and exchange'. What follows from this assumption is that we will always act rationally in pursuit of our own self interest, but this view of human beings is abstract from other aspects of reality as it ignores the relationships that constitute a meaningful part of our lives. Therefore, the increasing mobility and social breakdown that has come with the shift to wage labour is not acknowledged in the models that reflect the health of the system. These theories are fundamentally incapable of acknowledging such problems; thus a new theory is needed. This begs the question: what would a regeneration policy look like that acknowledged the qualitative aspects of work? Many Scottish councils are actively working to regenerate the communities that have been subjected to the forces mentioned above and in the Highlands & Islands specifically, there is much attention being devoted to revitalising the region.

The Highlands and Islands Development Board (HIDB) embraces employment generation as a key strategy in their regeneration initiatives: "Employment rates are at historically high levels, and unemployment rates have fallen dramatically in most parts of the region. This has resulted in tight labour markets with employers experiencing difficulty in recruitment. Unemployment data hide

a significant inactive potential workforce, people of working age but who, for a variety of reasons, are not in work. Addressing economic inactivity will improve labour market conditions and help to address social exclusion."

This and subsequent approaches to quantitative job creation fail to acknowledge a qualitative dimension of work and are incapable of analysis within the current economic thinking mentioned above. The main goal of this paper is to begin to understand what exactly it is that gives us meaning in our lives and how this is manifest in the work that we do. Max-Neef acknowledges that the role of work in society is more than a means to other ends: "Work constitutes much more than a factor of production: it fosters creativity, mobilizes social energy, preserves communal identity, deploys solidarity and utilizes organizational experience and popular knowledge for the satisfaction of individual and collective needs. Work has, then, a qualitative dimension which cannot be accounted for either by instrumental models of analysis or by economic manipulations of production functions."

It is with this qualitative dimension of work that one can draw a parallel with spirituality as 'that which gives life' and which might be thought of as a metaphor or colloquial expression for intangible qualitative considerations. As Zohar & Marshall put it 'for human beings, that which gives life—indeed that which gives unique definition—to our humanity is our need to place our enterprises in a frame of wider meaning and purpose.' Chile & Simpson argue that it is the connection between the individual and the wider community that links spirituality to community development. This begins with 'acknowledging that the well-being of the individual influences and is influenced by the well-being of the community'.

Waddock similarly argues that once we discover the fallacy of monetary and material pursuits, then we are on our way to realising the 'importance of community, of relationship, of integration into something meaningful in people's lives'. She adds, 'it is the positive experience of community that brings out the best in us, that allows us to develop our own sense of connectedness, even of spirituality, that uncovers our deepest values and allows the expression of those values'.

With the above notions of community and spirituality in mind, research was undertaken on the Isle of Eigg in August 2005 that sought to understand some of the qualitative factors of work and how this fed into the community regeneration process. The Isle of Eigg made headlines in 1997 when the community was able to buy the island from its reluctant laird. Prior to the buy-out, one interviewee described Eigg as 'basically a ruined place; people weren't able to see the light at the end of the tunnel'. The laird had tight control over what took place on Eigg: no one was able to get a permit to set up a new venture or to make improvements upon existing structures, for example.

This was detrimental to the ability of Eigg's residents to express themselves through enterprise. One interviewee recalled: "I was here as a worker (prior to the buy-out) and I can remember that people were living in squalor, really, because of the state of

the houses and they really weren't making any money at all and they couldn't do any private enterprise ... I think that if you have the private enterprise and it works, then that gives you much more satisfaction than working for a boss who is going to put the money in his own pocket at the end of the day."

The vision set forth by the original Isle of Eigg Trust acknowledged the role of entrepreneurship in allowing people to realise their potential. In the launch address of the Isle of Eigg Trust, Alastair McIntosh stated: "We are not claiming that most people today can live entirely from the land on a smallholding! Rather, our experience is that having an opportunity to live with the land deeply enriches human life. It can release creativity in many forms, including economic entrepreneurship. Here lies a font of true viability."

With security of tenure, people were able to experience a level of freedom and security that is greatly diminished under the ownership of a laird. One of the respondents stated, "there's no need to own land (privately) as long as one can have control over the use of the land within reason...you've always got the land; and land is power, land is control". Through collective ownership the buy-out gave the residents the ability to secure a better future for themselves on the island through private enterprise, making Eigg an ideal setting for such an enquiry. 10 interviewees who had businesses or business plans were chosen and interviews were structured so as to tease out underlying values and encourage interviewees to discuss the non-monetary aspects of their work.

In conversation with Eigg residents, it became apparent that an analysis of work couldn't be approached from a traditional profit or resources approach. Thus Max-Neef's theory of Fundamental Human Needs, which sets forth qualitative livelihood factors neglected in conventional economic thinking, was used as a framework for analysing the responses. As mentioned above, current economic models have no way of reflecting these factors. Max-Neef states: "The qualitative dimension(s) of work ... are intangible elements not measurable or definable in units comparable with those used for the conventional factors of production. Linked to a broader concept of work, these resources have a decisive role in compensating the scarcity of capital with qualitative elements for the increase of productivity. Understood as a force which mobilizes social potentialities, work, more than just a resource, is a generator of resources."

The findings of this research suggest that Smith's theory of 'Homo economicus' doesn't necessarily apply where a cohesive community exists. Money was not a significant motivating factor among the sample population. One of the respondents stated, "I never worked out whether I was making a profit, because I was worried that I would find out I wasn't and then have to stop, and if I didn't know then I wouldn't have to stop". Through the lens of classical economics this approach to running a business would be deemed irrational. However, traditional economics fails to grasp the importance and hidden benefits of community. What it does show is that if one is happy with one's work, then monetary accumulation is of secondary importance. Another respondent stated, 'I don't do it for money, it is sheer job satisfaction' while another jokingly said, 'What money?'. There was a consensus that making enough money to meet basic subsistence needs was important, but no one sought to get rich.

Other respondents mentioned that their work provided them with an outlet for their creativity. The craft shop owner stated,

"I think that simple objects and simple things can be beautiful; you can also translate your enjoyment and your perceptions of the landscape and your surroundings in the kind of artwork you create ... I find that working with my hands producing things is very satisfying". Others mentioned how working in mainstream society stifled creativity. The data further suggested that working on Eigg strengthened social bonds through participation: the shop owner noted that residents were always participating in conversations in her shop and that 'we had a period of 18 months without a shop and it had a very negative effect on the community'. In expressing these sentiments, she reflected the importance of the shop as a meeting space and saw success in terms of it providing somewhere for residents to gather and engage in social interaction.

These and other responses indicate that the residents of Eigg were not acting out of their own self interests; rather, an undercurrent of connectedness existed whereby people looked out for each other and provided a collective sense of security. One respondent said, "you can't fault the level of support if one is in extremis. People will help, there's no doubt about it. There is a collective understanding that if there is a real problem, then you muck in".

A general sense of 'spirituality' is arguably endemic in parts of Scottish culture, exemplified in Scottish philosopher John MacMurray's sum-up of the spiritual importance of community: "The community is a fellowship or brotherhood as it were. Its members recognize each other by a sort of family likeness; they feel a kind of spiritual kinship, an inner unity through which they 'belong together'. Clearly the community is not an organized, material, political society. It is rather a spiritual or cultural society." The findings of this research support the presence of community in this sense of the word, at least on Eigg. While the majority of residents and interviewees were incomers to the island, many seem to have been attracted by precisely such communal values, though they might not see the experience as 'spiritual' as such.

This paper has argued that our livelihoods provide us with more than a means to financial ends; our work represents an aspect of our lives that has the potential to meet our fundamental human needs. By defining spirituality in terms of 'that which gives life' and the relationship of the individual to the wider community, a parallel between spirituality and fundamental human needs as set forth by Max-Neef has provided a framework for analysing how work provides a qualitative dimension to the lives of the residents of Eigg. Within this framework, one gets the sense that living and working in a small community can meet fundamental human needs regardless of income. This shift in thinking from traditional emphasis on employment numbers to qualitative factors of work has implications for employment-based community regeneration initiatives and can serve as a departure from classical economic thinking that fails to acknowledge these aspects. Community regeneration initiatives throughout the Highlands & Islands and Scotland in general can use this research as a basis for an exploration into qualitative dimensions of work.

The lessons from Eigg are plain: work should be more than an income; it should allow individuals to use their creative potential to meet their fundamental human needs while working in the interests of their wider community. ■

***Mike Price was awarded an MSc in Human Ecology and currently resides in East Lothian***

# all together now

## John Nicholson makes an impassioned argument for unifying our efforts on social justice and humanitarian morality

Blair's New Labour is, allegedly, finished. Brown's Neo (?) Labour is hurtling towards a precipice. The longest soundbite in history is nearly over. But their bloody legacy of warmongering, privatisation and environmental destruction continues vampire-like to offer succour to the undead - and the Tories won't do anything different if elected next time.

The danger is that this creates a vacuum, one that the far Right rushes into, assisted in their legitimisation by both main parties. That's why the challenge needs to come from the Left. Only the Left can offer the ideological basis for an alternative. We have to make and win the arguments that peace is better than war, that public is better than private, that sharing, co-operating and recycling are better than shopping, conspicuous consumption and debt. It is capitalism that is to blame and not its scapegoats; migrants, refugees, the fat, the young... and the poor.

But the left is weak. We may never have been so fractured as we are today. It will no doubt take time and hard work to heal the recent rifts and it will need patience and honesty on all sides. That does not mean we should not try. Achieving Socialism will not come without the maximum unity of Socialists. So, for example, future organisation of the left should be by consensus. We need to develop pluralist, inclusive, tolerant and democratic ways of working. We cannot just put a flag in the sand and say 'join us - we're the party': that has been tried and it failed. But we should be willing to think long-term. If we can work together in practical ways, making demands and campaigning in unity, we could all come together in a few years time, perhaps under the umbrella of The Left. To do so, we cannot let elections get in the way. The bourgeois parliamentary electoral system is not of our choosing but we must find ways to avoid it causing us conflict. Inevitably the two main parties will be electioneering from now on with the single campaign slogan of 'vote for us because we're not them' and there will be pressure for all of us to conform to voting Labour just because they are not the Tories (so they say...).

But we could try to come to electoral pacts, or at least non-aggression agreements, in order to maximise support for the Left. And we should fight the fascists anyway, by campaigning in the communities where they seek to gain a foothold, not necessarily by standing in every seat or saying 'vote Labour because they are not the fascists' (...). Our challenge is essentially to Labour for paving the way for the Right; our tactic should be principle not populism.

Most of all we should be seeking agreement to common demands, actions and campaigns. The Communist Party has put together its Left-Wing Programme, the Labour Representation Committee has launched its recent 10-point petition, the SWP and ISG have raised Charters; there is much in common in all these. We should work together in practical ways to debate and agree these demands and take them out in campaigns in the communities regardless of which organisation we belong to.

Most immediately, the Convention of The Left aims to assist the latter. The Convention is both a protest at Labour's Conference in Manchester this September and a chance to develop a positive

alternative. The initial protest against the Cost of the War will be followed by four days of debate and discussion, based loosely around Politics, Planet, Public Services and Peace. This bold venture comes as a result of people from different left and radical traditions - or none - getting together in Greater Manchester to say that there are alternatives to Labour's policies of war and privatisation. We are from Green, Left, Internationalist, Communist, Socialist, Radical and Anarchist backgrounds. We are involved in civil liberties, anti-deportation, trade union, climate change, peace and public service campaigns. What we have in common is that we believe that wealth exists in society to pay for our essential needs, but we do not believe that an unbridled free market is sustainable. We cannot have Socialism if the planet has been destroyed, but we (probably?) can't save the planet unless we have Socialism.

So when New Labour comes to Manchester for its so-called 'conference' - an event generally believed to be without debate or decisions - we have decided that we want to host a 'Convention of The Left' just a stone's throw (or a balloon's flight) away from the security-surrounded official event. We will be holding a day of action, a full day conference and three days of themed debates and discussions (Saturday 20th - Wednesday 24th September 2008).

- Our Convention will be both a protest at Labour's war and privatisation, racism and pollution, authoritarianism and inequality, and a practical demonstration that there is an alternative.
- Our Convention will be about an entirely different world - one that can be built by working people for working people.
- Our Convention will be united in our determination to combine our strengths and develop the rebuilding of The Left today through open and participatory debates.

The agenda has been and still is evolving, because we have been seeking the comments, suggestions and involvement of many more people and we are going to continue doing so between now and the event. We don't just want a one-off conference, good though we hope the debates in September will be. We are encouraging everyone to debate the topics and possibilities across the pages of the Left press, websites and blogs right up until then - and beyond. So our blog ([www.conventionoftheleft.org](http://www.conventionoftheleft.org)) started with a few contributions for debate - on Planet, Peace, People not Profits and Politics: Power and Participation - and has encouraged responses to these and suggestions on many more, including Prejudice and Oppression. The topics don't all have to start with P but, for now, Give P's a Chance... and we look forward to the comments that come in.

Then, as we get closer to the event itself, we hope to have a body of material already debated widely across the Left that can start the Convention off on a sound footing. We hope this will encourage yet more participation and debate in the sessions that follow, all of which may lead to the development of 'charters' or even a 'manifesto' of The Left, on which we can all agree to mobilise our forces in unity so as to campaign more effectively. The Convention has been organised by an Organising Group,

with meetings held in Manchester and open to others to come and make suggestions. As a practical result of this, we agreed that we must take some action already; anti-fascist work, for example, was not going to wait until September and has started already in the localities especially vulnerable to fascist filth-peddling. We have also been looking at ways to involve the Left from around the rest of England who cannot necessarily make meetings in Manchester, and from our neighbours north and west of the borders in Scotland and Wales, and hopefully from Europe and beyond. Debate in hyperspace has been encouraged, but we hoped that people might also organise their own meetings in their own localities to which those of us in Manchester would be pleased to come along and give some information on progress so far.

Confirmed participants include: Tony Benn, John McDonnell, Jeremy Corbyn, Mark Serwotka, Jeremy Dear, Matt Wrack, Rahila Gupta, Tariq Ali, John Lister, Jonathan Neale, Kate Hudson, Andrew Murray, Hilary Wainwright, Colin Fox, Pam Currie, Bill Greenshields, George Galloway, Abjol Miah, Ken Loach, Lindsey German and Derek Wall. Sponsoring organisations include: the Labour Representation Committee; the Left Women's Network and Left Economics Advisory Panel; Scottish Socialist Party; Communist Party of Britain; Green Left; Respect; Socialist Workers' Party; Greater Manchester Association of Trades Union Councils; Manchester Trades Council; Liverpool Trades Council; Morning Star; Education for Tomorrow; A World to Win and many others. Supported by all these people, the Convention should produce some excellent sessions and be far more lively than the security-bound Labour non-event just next door.

So if you want to support actions ranging from stopping the war(s) to supporting the anti-nuclear blockades, fighting racist deportations to stopping housing sell-offs or defending the

NHS, do feel free to get involved. If you want to hear, or even to organise debates and discussions on Palestine, Iraq, Pakistan, fragmentation of the UK, climate change, human rights (including the rights of migrants and refugees), reclaiming health and (secular) education, and the struggle for a fairer economic system, do make suggestions and put your own contributions onto the blog.

We want to start defining a new way of working (even to reclaim that word 'new') so that we can work together in practical campaigns regardless of the organisations we may belong to, to stop war and nuclear proliferation, funding cuts and privatisation. Much more than just elections and individual campaigns, we want to develop a critique of capitalism as we now know it and an alternative strategy that is environmentally and socially just, inclusive and peaceful, pluralist, tolerant; one that doesn't rely on 'top-table' speakers but on discussion from us all and in pursuit of a bigger common objective that benefits the many and not the few.

The Convention isn't 'the' answer, but it aims to be part of the process of developing Left unity so as to win the argument for a Socialist society. Of course there will be doubts: "it's been done before"; "it's the same old people who aren't going anywhere" (emphasis on 'old'); "it's a sinking ship" (for an idea that's only just been floated, this particular metaphor perhaps doesn't quite 'hold water'). People aren't deserting this ship: more and more are signing up, including those who haven't been involved in Left politics before and don't define themselves as such. Just maybe this enterprise will boldly go where others have not succeeded. Diverse but not divisive, we want participation in debate and unity in action. What do you think? ■

*John Nicholson was Convenor of the Socialist Alliance in England until 2001; currently convening the Organising Group for the Convention of The Left.*

**We dared government:  
Put one franchise in  
public hands - and let's  
compare public and  
private railways!  
Government daren't.  
What does that tell you?**

**ASLEF**

Keith Norman: General Secretary  
Alan Donnelly: President  
the train drivers' union  
[www.aslef.org.uk](http://www.aslef.org.uk)



# money in the water

## Tommy Kane and Kyle Mitchell show how far water privatisation has gone in Scotland

Access to and control of water, have been contentious issues for centuries. Most recently this struggle has taken the form of a conflict over the increasing commercialisation, privatisation and liberalisation of fresh water goods and services. This shift in regulation, which has been introduced throughout much of the world, can be characterised not only by its nature – an increase in private sector participation in the water sector and thus a reliance on the free market as the model upon which society structures the governance, production and distribution of socially necessary goods and services – but also the geo-political climate within which this shift takes place, namely, the era of economic globalisation.

Indeed, this shift has been facilitated by processes of economic globalisation – processes that are defined by the dominant neo-liberal policies of deregulation, privatisation and liberalisation. Economic globalisation has done more than just facilitate the shift from public to private sector however. When it comes to governing resources which hitherto were considered public goods or part of the global commons, neoliberal policies have changed the nature and structure of governance. The shift in regulatory power has meant a reduction (and in some cases an outright eclipse) in the planning capacity of local, regional and national authorities. By using the EU and its water policies as an example, this article considers how supranational governing arrangements and institutions act as mutually-protective associations and were formed so as to enshrine legally the right to accumulate capital, through the right to private property and legally raid public goods and services and the global commons, such as water and its provision.

There has been, and indeed there still is, much debate and contention about what is, or should be, the purpose, role and responsibilities of the European Union. What's not in doubt is from its original inception the EU was always designed to underpin legally, grow, protect and sustain capitalism in Europe and beyond. This was made clear in the Treaty of Rome. Steve McGiffen, describes the role and purpose of the EU:

'In the main The Treaty of Rome set out to make western Europe safe for capitalism and in particular for the biggest corporations... Since then, the power of corporations has grown and that of other social forces has diminished. This is reflected in the four major treaties, which have carried integration ever further since the mid-1980's and reached its apotheosis in the text of the so-called constitutional treaty, in reality no constitution at all but a neo-liberal political programme, an audacious attempt to transform a temporary political ascendancy into a set of permanent arrangements and institutions...The consistent theme is that what's good for business is good for everyone, and what's good for business is to be able to make profit with as few restraints as possible – even where these restraints involve the well-being of the environment or the people and other beings which inhabit it' (McGiffen, 2005:180-181).

A key area of focus here is how the political and policy direction has been charted in the EU, and our concern is how this relates to water policy in Scotland. The increasing commercialisation, privatisation and liberalisation of water in Scotland is taking place incrementally by introducing legislation - in the form of

EU directives alongside national policy – which, taken together, can create the impression of being an irresistible force that's thrusting water policy, governance and ownership down a private sector path. Evidence of the EU's preferred route in water policy is seen in their activities in and out of Europe. Outside Europe the EU has encouraged privatisation through bi-lateral agreements where conditionalities have been placed on Trade and Aid agreements: benefiting European companies, the market leaders in private water provision. This mindset is displayed in the European Commission Research programme. FP7 supports research in selected priority areas - the aim being to make, or keep, the EU as a world leader in those sectors. One of these sectors is water: through the Water Supply and Sanitation Technology Programme (WSSTP). This combines members from the European Commission, the Private Water Utilities, the private scientific community and national water associations. The water policy direction promoted by the EU in the Central and Eastern European (CEE) acceding and candidate countries is also evidence of the underpinning mindset prevalent in the EU. Privatisation, commercialisation and 'institutional reform' which benefit existing Western European Companies, such as Veolia and Suez, is the medicine most prescribed by EU institutions in CEE countries. The European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD) are key proponents of such a path. The remit of the EBRD is clear: to invest mainly in Private Companies to help central and Eastern Europe and ex-soviet countries nurture a new private sector and market based economy. The EIB, a part owner of the EBRD, promotes values and so-called institutional reform in public utilities, which corporatise and commercialise and, arguably, lay the foundations for potential future privatisations. Loans to CEE Water Utilities are often given alongside grants from the European IPSA funds. Yet still there is a modern day scandal of 20-22 million CEE people who do not have adequate sanitation provision: unsurprising, as those going without proper sanitation are amongst the poorest Europeans and would not be able to ensure 'full cost recovery' and so-called 'bankability' for private investors and operators.

In its Paper 'Global Europe: Competing in the World' The European Commission, DG Trade, and its Commissioner Peter Mandelson, asserted that European Companies require competitive markets at home to create globally competitive companies in the EU. This includes services: though water is currently exempted from the Services Directive it is constantly under threat of inclusion though it is considered a service to be exported beyond Europe's borders. They claim how 'Services are the cornerstone of the EU economy. They (services) represent 77 per cent of GDP and employment, an area of European comparative advantage with the greatest potential for growth in EU exports. Gradually liberalising global trade in services is an important factor in future economic growth including in the developing world'. The words of the European Commission Paper mirror almost identically those of the European Services Forum (ESF) set out in a position paper in 2007. Indicating the influence of big business on the policies of the EU, they state:

"Services account for over 77 per cent of both European GDP and employment but to date represents only 28 per

cent of European external trade. Simply put, the growth potential implied by this disparity requires that all new trade agreements concluded by the European Union include a comprehensive package of services liberalisation. The EU must ensure that this fact is made explicit to all potential negotiating partners before talks are opened.” (ESF Position Paper on Trade Agreements, [28 February 2007])

An important driver of the gradual liberalisation of water provision is the use of EU directives. Many of the directives related to water appear benign and technocratic and indeed progressive. Intended to improve the environment and human health, the likes of the Urban Wastewater Treatment Directive, Drinking Water Directive, the Nitrates Directive, and the Water Framework Directive (WFD) are individually sound directives in improving human health and water sustainability. They have been introduced, however, just as some utilities are downsizing and sticking only to their core services, such as in Stockholm, and/or commercialising operations still in a public framework, such as Scotland or Northern Ireland. Thus, adherence to the complex needs of such directives necessitates an increased role for private companies: whether it be multi-faceted private operators or specialised technological companies who offer a particular service needed to meet the requirements of the directives. Alarming, EU Directives make up approximately 80 per cent of UK Water legislation. In Scotland there have been three significant consequences of EU policy and legislation. The Urban Waste Water Treatment Directive required the Regional Water Authorities at that time to seek finance through the Private Finance Initiative (PFI) as their funding from borrowing and charges was not enough to cover the costs of the new Waste Water Treatment Plants. The possibility of additional borrowing or indeed extra spending from government was not countenanced. This powerfully demonstrated “a reluctance to raise taxation to cover much needed investment means that private sector investment is required to modernise facilities and pay for EU-mandated modernisation” (Global Water Report).

The environmental and social impact of rolling out with PFI was shown last year when the Seaford Treatment Works leaked a catastrophic amount of sewerage into the Forth over a whole weekend – due to the breakdown of a pump and the then operator, Thames Water, not having a spare pump in place. This incident led to essential council workers being taken from front-line duties in order to patrol Edinburgh’s beaches and fisherman being grounded. Despite the risk being – apparently – transferred to the operator they were fined only £13,500, while Fishermen in Pittenweem are still fighting for compensation with no agency or organisation taking responsibility to pay them their lost earnings.

When considering the Water Services (Scotland) Act 2005 the Parliament at that time allowed Competition in the non-domestic sector (to bill, charge and deal with customer issues) out of a concern that the Competition Act, modelled on articles 81 and 82 of the European Community Treaty, could foist on them an arrangement not conducive to the wants and needs of the Scottish industry. The STUC argued for an exemption in 2000, but the then Scottish Executive believed and decided otherwise. Stating in their consultation Managing Change in the Scottish Water Industry that, “The Executive is keen to ensure that Scottish water and sewerage legislation and UK competition legislation, taken together provide, an effective framework for the development of competition in the Scottish water sector”. Worryingly, but not surprisingly, in June this

year, Alan Sutherland – the Chief Executive of the Water Industry Commission – called for competition to be rolled out to domestic customers of water. Moreover, not content with calling for water to be further liberalised in Scotland, he advocated a full UK market for all domestic and non-domestic services. Sutherland denied this as a departure from Scotland’s publicly owned status. One can only wonder what Mr Sutherland believes constitutes public ownership?

The Water Framework Directive plainly affects Scotland as well. And, while it is inconclusive in terms of its prescription of how the governance and ownership of water should take shape, it does enshrine particular substantive principles that exceed simply technocratic solutions thereby giving institutional legitimacy to ideological initiatives such as full-cost recovery. This was transposed into Scottish law through the Water Environment and Water Services (Scotland) Act 2003. What’s more, the WFD has had a profound affect on the way in which Scotland sustains its water services. It is clear that the WFD is being used to support the notion that general taxation should not pay for the essential public need of water. There are other directives, not necessarily explicitly water related, that facilitate the commercialisation and privatisation of water in Scotland. The Utility Procurement Directive tries “to ensure a real opening up of the market and a fair balance in the application of procurement rules in the water, energy, transport and postal services sectors”. The directive goes on to state, “It should be ensured, therefore, that the equal treatment of contracting entities operating in the public sector and those operating in the private sector is not prejudiced”. In one sense this legally affirms the current direction of water in Scotland as Scottish Water continues to decrease its in-house workforce and capabilities and increasingly outsources its work. On the other it should be noted that this directive legally enshrines such a direction.

The policy direction inside Europe indicates a layered and complex path is taken; whilst actions outside Europe illustrate, ultimately, the ideological predisposition of the EU. The current direction is no accident: it follows a clear political trajectory that promotes a ‘Public Bad/Private Good’ ethos. This is of fundamental importance: particular political choices drawn from a particular strain of free-market ideology is the order of the day. As Robert Kuttner notes, “The decision to allow markets, flaws and all, free rein is just one political choice among many. There is no escape from politics”. (Kuntner, 1999:329). Alternatively, political decisions can be made in a progressive manner whereby public authorities seek to re-appropriate public goods and services. In Paris the municipality has chosen to re-municipalise water supply, as they have also done in Grenoble. What’s important here is that these were deliberate political choices made by governing authorities. In Scotland EU directives have been used to affirm and introduce policies conducive to the dominant political ideology that sees the penetration of public goods and services as progressive. If we are to strive for a genuine political alternative and outlook that employed a strategy of legally enshrining universal access to water – and other such public goods and services for that matter. A constitutional amendment, impregnable to the private sector, which is based on guaranteeing equitable access to water for everyone irrespective of an individual’s financial wherewithal is needed – then, and only then can we be sure of such universal access now and in the future. ■

*Tommy Kane and Kyle Mitchell are PhD candidates at Strathclyde University and are members of and contributors to the Reclaiming Public Water Network*

# Reviews

## **Hamish Henderson: A Biography. Volume 1 - The Making of the Poet (1919 -1953) by Timothy Neat, Polygon, 2007, £25**

The biographer who approaches the subject of Hamish Henderson faces a number of formidable obstacles. Here is one of the giants of twentieth century war poetry whose *Elegies for the Dead in Cyrenaica* is in part, anthologised in virtually every collection of 1939–45 verse. This is the young captain who in 1945 received the Italian surrender. Here, the partisan commander in Northern Italy; there the scholar and songwriter widely acknowledged as the driver of the Scottish cultural and folk revival. As this first volume ends before Henderson reached the age of 34, this has to be the biography that writes itself, does it not? Indeed, surely there is an autobiography?

The answer to these questions is a resounding 'no'. All his life, Hamish Henderson, although a most gregarious man, remained strangely elusive. Given that he knew he had a life-story of compelling interest, why the reticence? Timothy Neat suggests reasons both personal and ideological. Like Shelley, Henderson believed poets and seers were one and the same; they foresaw and directed the future, promoted tribal well-being and kept secrets. That said, we had his selected essays *Alias MacAlias* (1992), an assorted collection of further essays, letters and the odd semi-autobiographical article. Nonetheless, the problem remained. It was further compounded by the fact that there was no coherent, catalogued Henderson archive, despite the fact that his output was enormous, though largely unpublished. This is notwithstanding the sterling efforts of Raymond Ross in collating and publishing *Hamish Henderson: Collected Poems and Songs* (Curly Snake, 2000).

A critical appreciation of this work therefore, depends on how Tim Neat has managed to overcome the obstacles that have hindered previous biographers of this extraordinary man. Any judgement is necessarily provisional: Volume Two follows. However, on the evidence available here at the halfway stage, Neat may be on-course for a remarkable success. He has accessed the poet's enormous un-catalogued archive in which he "ruthlessly set down his inner thoughts, feelings and ambitions in private jottings, poems, songs, letters, aphorisms, anecdotes, essays, lecture notes". The end result is what Neat hilariously describes as "...this magnificent compost heap of an archive". This is the story of Henderson's cultural and political odyssey from his Blairgowrie beginnings in the wake of the Great War to his appointment to a permanent staff position with the School of Scottish Studies at Edinburgh University in the early 1950s.

Hamish Henderson was born in Blairgowrie on 11 November 1919, exactly one year to the day since the armistice and an auspicious date, considering the part war was to play in his life. His mother, Janet, had recently returned from the Western Front where she had served as a nurse; she was thirty-nine and unmarried. Hamish's father was conspicuous by his absence. The stigma of illegitimacy in those years took Janet Henderson and her infant son out of the *douce* middle class world into which he had been born to a remote rented cottage at the Spittal of Glenshee where Hamish spent the first five years of his life.

Henderson recalled how his mother could speak Gaelic and kept a book of songs in the house. When he heard her singing songs that were not in the book he asked her why, to be told that some of the best songs were not to be found in books. That, he acknowledged, started him off as a folklorist and collector. His collecting began literally at his mother's knee. Orphaned at the age of 13, he was sent to a home in Clapham, South London, while attending Dulwich College as a scholarship boy.

On the Cambridge years, when Henderson read modern languages, Neat examines carefully the claim the former made – preposterous on the face of it – that it was his voice, more than any other single factor which led to the fall of Chamberlain. Neat asks "is he joking?". He argues that, at a time when Cambridge sent two MPs to Westminster, in joining with like-minded radicals, and academics such as Ludwig Wittgenstein in major demonstrations, intellectual argument, the fermentation of revolutionary thought, writing poems and employing sheer will, Henderson helped establish Chamberlain as a national liability. Neat concludes, "Hamish's claim may be less preposterous than it seems".

Joining the Pioneer Corps in the early summer of 1940, Henderson's attitude to the war is captured in a letter he wrote to an old Blairgowrie friend who had informed him of the split in the nationalist movement which occurred after Douglas Young had been elected leader on the understanding that it would have nothing to do with "England's War". Henderson replied "it gives me great satisfaction to be actually combating the most reactionary force in the world today ... I think the men of our Highland Div. are doing more to solve Scotland's problems (social-economic-political) than Douglas (Young) languishing in clink".

This was written in Tunisia, four months after the allied victory at Alamein, and Henderson was determined that the battle would provide the fulcrum of his *Elegies for the Dead in Cyrenaica*. Together with his comrades, Hamish Henderson believed, correctly, that like Stalingrad, which had begun six weeks earlier, Alamein would be a hinge of World history. He was determined to salute the contribution made to the battle by the 51st Highland Division. Neat makes the point that "Hamish saw the heroism and success of this new division at El Alamein as a moment of resurrection and a symbol of national renewal". He describes how during the opening of the battle, two searchlights pierced the sky like crossed swords, but Henderson did not see crossed swords: "It was the flag of Scotland – the saltire – that the searchlight operators had conjured into being over Alamein. As the highlanders walked towards their deaths and towards a victory that would lighten the lives of generations unborn, it was this cross – in the moonlit sky – that was the last thing that many of them would see on earth". This is Neat following Henderson, in bardic mode. It is one of the most moving passages in the book.

He also underlines how Hamish Henderson saw the 51st Highland Division almost as a Scottish National Army, in which the mood was for a march on London when the war was over. In Sicily in 1943 where he witnessed the reaction to the fall of Mussolini, he wrote "for the moment however, our bayonets

are reserved for German and Italian fascists. The English can wait...". Integrating the partisans of Liguria and Tuscany into the allied military machine, Henderson the partisan commander, marched on Florence where he organised the broadcast of the Italian surrender by Graziani. Neat writes how the Italian proclamation, (in English,) "carries the impress of the hand of Hamish Henderson."

Homecoming brought grey days. The country had drifted into a colourless Labourism; the heroic aspirations of the war had dissipated. Homeless and unemployed, he took to the road on his motorbike to South Uist where he immersed himself in the Scottish oral tradition, to which he was again adding. Neat makes clear that a crucial factor here was Henderson's discovery in Italy of the work of Gramsci; in particular Gramsci's notion of 'hegemony' whereby a new cultural consensus could be reconstructed, furnished by working people and their own 'intellectuals'. It marked the beginning of the split between Henderson's folklorists and the Scottish 'literati'.

His work with the American ethno-musician, Alan Lomax, greatly accelerated the folksong revival. Lomax's attention had been drawn to Henderson because of his post of temporary research fellow at the newly formed School of Scottish Studies at Edinburgh University. Agreeing that the BBC and /or the University would have permanent access to all the songs and music Lomax and Henderson collected in Scotland, the pair took to the road, with Lomax the driver. The great years of the School were about to begin. This, however, is getting ahead of our tale. The current volume ends in 1953 with Henderson confirmed in a permanent post at Edinburgh.

So, as we take our leave – temporarily – of the 33 year-old Hamish Henderson, what are we to make of this remarkable man? Man of action, certainly. Indeed one expression that springs to mind is the epithet the young Andre Malraux applied to himself: "L'homme engage", but there's one crucial difference: Malraux was a charlatan. Much of what he claimed for his own early life was pure invention which belonged properly in his fictions. Hamish Henderson was the genuine article and in Neat he has found his chronicler; this is biography on a grand scale. Above all, one quality shines out; Henderson's sheer humanity. This was the kind of humanity that Iain Crichton-Smith surely had in mind when he exhorted us to:

"Love the disordered man who sings like a river.  
Whose form is love, whose country is for ever."

Volume two is awaited with anticipation. ■

*Ian Kellagher*

### **Custom and Conflict in the Land of the Gael: Ballachulish 1900-1910 by Neville Kirk, Merlin Press Ltd, 2007**

The study of the history of Scotland has enjoyed something of a renaissance in recent years, driven by the country's lurching progress to its present position as some sort of semi-stateless nation. A large part of this effort has concerned itself with affairs in the Highlands. After all, and in some very strange ways, the traditionally-Gaelic culture of the Scottish north has often been deemed to contain within itself the historic soul of Scottish identity and destiny.

Naturally, this concern with the Highlands has generally focused on the story of landlords and tenants: on one side, the English or Anglo-Scotch ruling-class of the bens and glens; on the other, the indigenous Gaelic-speaking crofters of these same bens and glens. By the end of the 19th century these crofters, organised in the Highland Land League, were engaged in an agitation that was titanic in scale by the modest standards of their usual existence. After all, the Tudors could pass legislation designed to prevent rural depopulation and forbid landowners from converting arable land into pasture or allowing habitations to decay in 15th century England. But in the Highlands of Scotland just 500 years later, eviction and oppression were the order of the day as traditional forms of tenure gave way to capitalist sheep-farming and, in turn, to recro-colonial deer-afforestation and the eagle-feathered Cult of Balmorality.

But the subject of Neville Kirk's monograph is a decidedly working-class dispute of the early 20th century, albeit one in a distinctly Highland context. The location for this proletarian agitation was the slate-quarrying village of Ballachulish, to the south of Fort William and at the mouth of the Pass of Glencoe. Here, from the summer of 1902, the workers were involved in a 12-month lock-out over the dismissal of their local medical officer, the Gaelic-speaking (and politically radical) Dr. Lachlan Grant. Grant had earlier been doctor at Gesto hospital on the very radical island of Skye, where he would without doubt have met Skye's nationally-known crofters' leaders – among them, John MacPherson of Glendale and the Rev. Donald MacCallum. And in 1905, a second dispute broke-out, which saw a crowd of hundreds break into the house of the quarry manager to force his written resignation and to win a promise that he would be out of Ballachulish by the following morning – to the chagrin of the company's chairman, Colonel Malcolm, a leading Conservative and one of the foremost landowners in Argyll, who subsequently resigned his post.

This mirror-image of events in the world outside the Highlands should not in itself be surprising. After all, David Lloyd George's first-ever political meeting was under the grim slate screes and quarries of Blaenau Ffestiniog in north-west Wales – at a rally addressed by none other than the recently-elected Crofters' MP for Ross-shire! At a Highland Land League function in Greenock, the Internationale was reportedly sung, along with traditional Gaelic airs. And the people who owned the estate of Arisaig (where MacCallum had been minister before Skye) drew much of their fortune from the Astley Deep in Duckinfield near Manchester, said to be the deepest pit in the world, and scene of an epic explosion in 1874. These Astley coal-diggers were closely linked to the landlords who had overseen from the drawing-room windows of Ardtornish the deformation of the peninsula of Morvern (where MacCallum had been before Arisaig). Thus was a steam-yacht specially kept, in the cause of agreeable and expeditious intercourse between those great outposts of Empire: Arisaig House and Ardtornish Castle.

Kirk is a professor of history in Manchester and brings to his highly original study of the disputes in Ballachulish an outsider's perspective, along with the methodologies of a specialist in social and labour history. This is to be welcomed, not least because the Ballachulish dispute has been almost entirely overlooked by historians even although it represented a stunning victory for the organised and united action of workers: and it is not so many years, after all, since one "leading" (English) academic described the long land-war in the Highlands as "a very minor land dispute".

Concretely, these disputes meant head-to-head conflict between the forces of a capitalist employer and a workforce that was overwhelmingly Gaelic-speaking and overwhelmingly of Highland name. At one point, even a platoon of scab-labour was driven away by a crowd of women and children hurling rocks and slates at the blacklegs.

Although Kirk does not tell us so, one of these rock-hurling Gaels was a young boy called Duncan MacQuarrie, who had already heard Keir Hardie speak in the village. A little later an itinerant peddler, to whom his family had given overnight shelter, would leave with the boy a copy of a tract by Engels on the theme of Marxism and freedom. After serving in World War One (in which he won a Military Medal) MacQuarrie for many years was to lead the Ballachulish branch of the Communist Party (of Great Britain).

The slate-workers had radical supporters too from beyond their own immediate ranks but from within their own cultural community, "organic intellectuals" in Gramsci's celebrated phrase. These were Dr. Grant himself, the village teacher Archibald McCallum and the local United Free Church minister, Duncan McMurchy, who between them, "possessed impressive organisational, leadership and ideological powers and authority among the local population".

Kirk does not tell us if Archibald MacCallum was a relation of the Rev. Donald MacCallum or of the Rev. Malcolm MacCallum of Muckairn, soon to be a stalwart of the radical weekly Forward,

and of the reborn Highland Land League promoted by the paper. But then of course, there has been very little systematic research published on Scotland's Celtic intelligentsia from 20 years either side of 1900, and as Kirk says, a biography of Dr. Grant would represent a very good start to such a process. Lachlan MacBean's *The Celtic Who's Who*, published in Kirkcaldy in 1921, would serve as a useful introduction to the research.

Still, we know that the doctor was *raison d'être* and figurehead for two of the most successful labour disputes in the history of the Scottish workers' movement (or three, if we count the strike led by Ballachulish men at Kinlochleven in 1910). But they were no more than economic struggles, albeit within the context of a distinctive local culture. There was no leadership, no theory that sought to transform these struggles into generalised class or national warfare on an all-Scottish scale.

The proletarians of Ballachulish could still welcome home the Volunteers from their imperial adventures in the Transvaal. They could still boast of being British, and toast the health of the king. They could still welcome the arrival of His Britannic Majesty's steam yacht at Kinlochleven (although Kirk does not dwell on what His Britannic Majesty got up to when there). Scotland, in short, was still embedded with the institutions, the ideologies, the world-view, of the British Empire and the tumbling of that warmly disordered bedding was still a long way in the future. ■

*Iain Fraser Grigor*

## web review

Henry McCubbin

A good reflection on public attitudes towards crime is to find out what information is being made available via the internet in response to public demand. It's that old adage location, location, location. The one address that you can find useful statistics is at [www.upmystreet.com](http://www.upmystreet.com). If you enter your post code you will get a detailed run down on crime at your desired location in comparison to the national average in Scotland.

Fortunately it does not give changes over time – a notoriously difficult set of data to produce due to the constant redefinition of criminal offences which have no discernable explanation apart from political fashion or moral panic. Due the improvements in the information stored on the net I can direct you to Stanley Cohen's study of Mods and Rockers in the 1960s - [books.google.co.uk/books?id=eDhPbH9roU4C&printsec=frontcover&dq=folk+devils+and+moral+panic+mugging&sig=ACfU3U1ZJhn5BUEi-k7Pr20ed-6XDYr8ew#PPR42,M1](http://books.google.co.uk/books?id=eDhPbH9roU4C&printsec=frontcover&dq=folk+devils+and+moral+panic+mugging&sig=ACfU3U1ZJhn5BUEi-k7Pr20ed-6XDYr8ew#PPR42,M1). The distortion of statistics can also be illustrated by the following quote from Stuart Hall; "'Mugging' was presented in the media as a new and rapidly growing phenomenon. In fact, the crime was not new, only the label was, and official statistics did not support the view that it was growing rapidly, except of course to the extent that, once you've come up with a label that didn't exist before, then a number of old offences will inevitably fall under this new heading, thus creating the impression of rapid growth".

[www.independent.co.uk/news/uk/home-news/more-than-3600-new-offences-under-labour-918053.html](http://www.independent.co.uk/news/uk/home-news/more-than-3600-new-offences-under-labour-918053.html) exposes the

introduction or redefinition of 3,605 offences since Labour took power at Westminster. Unfortunately it is nigh-impossible at this point to separate out our Scottish legislative programme from this although Michael Keating, Linda Stevenson, Paul Cairney and Katherine Taylor do provide useful information in "Does Devolution Make a Difference? Legislative Output and Policy Divergence in Scotland" to be found at [www.abdn.ac.uk/pir/notes/Level3/PI3546/Keating%20et%20al%20JLS%202003%20final.pdf](http://www.abdn.ac.uk/pir/notes/Level3/PI3546/Keating%20et%20al%20JLS%202003%20final.pdf). Further useful and practical information is available at [www.scotcourts.gov.uk](http://www.scotcourts.gov.uk) and [www.scotland.gov.uk/News/Releases/2008/09/03100801](http://www.scotland.gov.uk/News/Releases/2008/09/03100801).

For a current scandal exposed by the Observer and NAPO the probation officers' union look at

[www.guardian.co.uk/uk/2008/aug/31/military-prisonsandprobation](http://www.guardian.co.uk/uk/2008/aug/31/military-prisonsandprobation). For some time anecdotal evidence from news reports on court proceedings appeared to indicate that a disproportionate number of former military personnel were ending up in court. This article exposes that as the case and the responsibility can be fairly laid at the feet of our politicians for not ensuring that adequate psychiatric care has been made available to those they send to do their dirty work. Perhaps we should also study criminal violence in those countries whose governments pursue foreign policy through violence and tolerate torture as opposed to those who prefer peaceful diplomatic means. We might then discover the roots of knife and gun crime in our own society. ■

# Kick Up The Tabloids

## ENGLAND BECOMES SCOTLAND SHOCK

Crime is never far away from the headlines, never more so than this summer. A summer where the English tabloids claimed their country was in the grip of the worst crime wave in living memory. Yet a summer where the SNP announced crime in Scotland had fallen in their first year in government. Despite the fact that Kenny Ritchie had come home.

Scotland as a nation has always had a rather ambivalent attitude to crime. We all hate being the victims of crime, and many amongst us have a string-em-up-and-let-them hang attitude to the perpetrators of crime. Yet, walk into any bookstore in Glasgow or Edinburgh and the shelves will be brimming over with Scottish Crime Fiction, True Scottish Crime and real-life accounts of our nations most notorious murderers.

We have a huge nostalgia industry based around the most gruesome events from our past. Even in genteel Edinburgh, there appears to be a tendency to name pubs after some of the city's most monstrous figures from history or fiction. Deacon Brodies on the High St, the Jeckel and Hyde, the Burke and Hare. All named after notorious murderers from previous centuries. Is there some decent period of time that has to elapse between being a notorious murderer and having a pub named after you? How long will be before the following is overheard: "Fancy coming down for a pint at the Peter Tobin tonight?". "No, me and the lads are off down to the Fred West. They've just re-paved the beer garden."

But we do seem to revel in this darker side of our past more than we dwell on the greater achievements of Scots in history. For example, to my knowledge, there are no pubs named after Alexander Graham Bell or John Logie Baird, two Scots whose work changed the very nature of modern civilisation. John Logie Baird must be spinning in his grave now, however, at the consequences of his invention. In the 1930's he invented television as an alternative to sitting in the house doing nothing. Now people turn on their TV to look at people sitting in a house doing nothing.

Alexander Graham Bell, likewise, when he received his first phone call from his assistant Mr Watson would never have dreamed of hearing:

"Can you hear me, Mr Bell?" "Loud and clear, Mr Watson!"

"We've done it, Mr Bell."

"Yes, Watson, we've done it."

"Mr Bell, do you have five minutes to answer some simple straightforward questions. Have you considered putting your gas and electricity bills into one easy-to-pay....."

"Fuck off, Watson!"

South of the border, crime is never far off the agenda, particularly for readers of the Daily Mail. But this summer in particular three issues have caused the English gutter press to get their hackles up. They are, in no particular order: (1) Binge-drinking, (2) Knife-crime, (3) Their football team not qualifying for the European

Championships. In other words, their country is turning into Scotland. And who better to blame than their Scottish Prime Minister. People in England have never trusted Gordon Brown, because he is Scottish. Whereas in Scotland, nobody trusts Gordon Brown because he pretends not to be Scottish. Brown, as ever, is keen to stress his Britishness. Indeed, he insists every immigrant entering the UK sits a Britishness Test.

I had a look at some of the sample questions and failed it. In response, I have formulated my own test, to ascertain Scottishness:

Question 1: If there had been a World Cup in 1939, and England had qualified but Scotland had failed to qualify, who would you have supported; (a) Germany (b) Japan (c) Italy (d) Trinidad & Tobago

Question 2; Which of the following counts as one of your five daily portions of fruit and veg: Chips, mashed potato, curry sauce, Mars bar (either raw or deep-fried), pie, brown sauce, pomegranate

Question 3: Which of the following phrases best describes your attitude to life; (a) The glass is half-full (b) The glass is half-empty (c) My ancestors once had a glass but it was stolen by the English (d) Who needs a glass, you can tank it straight out the bottle (e) Glass ? I'll fucking glass you, ya bawbag!

Drink is often blamed as a major causal factor in many crimes. And Governments both sides of the border have been cranking up the rhetoric over problem drinking. One of the most ridiculous over-statements of the summer came out of the mouth of Scottish Justice Secretary Kenny McAskill. A man who was himself famously arrested at Wembley in 1999 under suspicion of being drunk and disorderly. McAskill claimed that drinking at home is like downloading child pornography from the internet. Which is going over the top just a tad. I am sure we would all agree that Gary Glitter would have got a better press if he had just been a bit of a piss-artist.

Crime is yet one more problem landing at the door of our beleaguered PM. Brown's career strikes me as being like the plot of Macbeth if Shakespeare could not be bothered to make it interesting. Look at the parallels. For many years it was predicted of both Brown and Macbeth that they would become leader. Both bullied and manipulated their way to power, stabbing friend and foe alike in the back. When Macbeth finally came to power, it all ended in a dramatic, tragic bloodbath. Yet when Brown came to power, it all ended in him being a bit shit at the job.

In terms of crime statistics, salvation for Gordon Brown may come from the unlikeliest of sources, namely Karl Marx. Marx, after all claimed that "all property is theft". Whereas,

with credit crunch, economic stagnation, house re-possession on the rise, millions of us have a lot less property than we once had. ■

*Paul Sneddon*



Robert Owen was one of the most significant thinkers and social innovators of the nineteenth century. While widely recognised as the ‘father of co-operation’, and an exemplary industrialist and educational reformer, he is well-known for his work on the development of time-based currencies, trades unionism and experiments in community living. On the 150th anniversary of his death, this book explores these issues through a series of chapters written by leading current practitioners in each of the fields of endeavour that Owen was concerned with, and tries to draw lessons from his experience for social innovators of the future.



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