

## **A Brief Commentary on Kim Workman's Presentation:**

"Politics and Punitiveness – Overcoming the Criminal Justice Dilemma"  
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Let me begin by thanking Kim Workman for his extremely thoughtful and perceptive presentation. At the beginning of his talk, Kim acknowledged the contribution of several local experts on the phenomenon of penal populism – such as John Pratt, Warren Young, Gabrielle Maxwell, Andrew Becroft and David Carruthers. To that list must be added the name of Kim Workman himself. Indeed, even in such an august company, I consider Kim to be uniquely qualified to speak on issues of crime and punishment. He brings a remarkable range of experience to the topic – a life time of work in the public service, a solid grasp of the academic literature, and, most of all, an extensive experience of working with prisoners – the “objects” of penal policy, as he observes. I always appreciate the combination of sanity and humanity that Kim brings to what is a very volatile and emotive subject.

I can think of few other areas where the gap between election-year rhetoric and sound policy is as wide as it is on “law and order”. Kim observes that Don Brash wouldn't have tried to run the Reserve Bank on level of knowledge and expertise he assumed was adequate for determining Corrections policy. A very telling point.... though the current global financial crisis shows that even the “smartest guys in room” are still fallible, not least because they are still susceptible to those deadly human vices of greed, fear and hubris, vices which also play a significant role in punitive populism.

Kim detects “a small but discernible shift in political thinking about crime and punishment” over the past 3 years, and cites some media commentators (at least in print media) who are voicing criticism of the “lock-em-up-and-throw-away-the-key” approach to crime that has dominated debate in recent times. I do hope Kim is right. So far in the current election campaign, law and order has played a much smaller role than many of us

were expecting. But that's probably because the global financial crisis is casting everything else into the shadows.

Self-reporting polls do seem to indicate that a worry about law & order is very high on ordinary people's agenda – and the temptation to exploit that concern seems irresistible to both major parties, and several minor parties. On a recent *Agenda* programme, Phil Goff virtually boasted about the massive explosion in our prison population over the past decade (71% increase) as a sign of the success of his government's "tough on crime" record. His National Party counterpart complained that current policy is still not tough enough, promising additional harsh measures – including no parole for repeat offenders, and "life means life" for the most serious violent criminals. Clearly both sides believe there are votes to be won by promising heightened regimes of punishment to an increasingly fearful electorate.

But, speaking purely as a voter, as a taxpayer, and as a citizen, I have only contempt for such competitive posturing on this issue. I can accept that our whole electoral process seems to require politicians to appeal to some of our basest drives for their success – including the fear, greed and pride mentioned a moment ago. That's par for the course. But when it comes to the Corrections issue, the human costs of doing so are so enormous, it surely behoves our political leaders to tread with added caution and integrity.

By "human costs", I don't only mean the costs for those of individuals consigned to prison for longer and longer periods (though these are considerable), but also the costs for their partners, their children and grandchildren, their whanau and their local communities, and for the Maori people as a whole. For every individual sent to prison, there are dozens of other innocent people harmed in some significant way by that event. This fact gets almost totally overlooked in the popular debate. All attention focuses on the need to punish individual criminals. The down-stream communal consequences of our increasing reliance on what one recent American book terms "the retributive degradation of mass imprisonment", rarely, if ever, gets talked about on the hustings.

Instead what we *do* get is what sometimes appears to be a quite cynical manipulation of the electorate for political gain – which I, as a voter, deeply resent. It is manipulation in at least three ways:

- *First, it is a manipulation of the truth:* Harsher sentencing regimes are openly touted as a solution to allegedly rising crime rates, and as a way of deterring offending and protecting society. But this is not what the experts tell us actually happens. Criminologists and criminal justice professionals know that the truth is much more complex than that – and that increasing punitiveness does *not* deliver the desired results, and may well do the very opposite.

Party spokespersons on justice and Corrections must know this. But they persist in distorting the facts. If they were as serious about addressing the problem as they claim, surely they would listen more to the experts, would speak more about the causes of crime, and would favour evidence-based policy options over cheap slogans.

- *Secondly, law & order electioneering involves a cynical manipulation of fear.* I recently heard a panel of politicians discussing Corrections policy, and most of them freely admitted that their party rhetoric was tailored to satisfy public opinion. They all blamed the media for creating an exaggerated appetite for punishment, and said they were simply responding to the consequences.

Certainly our popular media *is* hugely culpable in this respect, with its lazy and sensationalist reporting. But in such a situation, sometimes the responsible thing for politicians to do is to choose *not* to feed the flames with cheap talk, but instead to bring some rational perspective to the situation. That's what is happening with the financial crisis. And it needs to happen more with respect to crime. Crime *is* a real problem, and it does need to be taken seriously. But crime is not spiralling out of control, as most people now assume, and the causes of crime are much more complex than longer prison sentences will address. (I wonder whether we need to start a "*Fear Not! Movement*", encouraging people not to let fear dominate their lives, constrict their freedom, and control their values)

*Finally, “rush to punish” agenda involves a manipulation of malice:*

This is what I find most concerning – the way the “get tough on crime” talk exacerbates the tendency present in every society to find scape-goats to vent our collective malice on, some minority-community to despise and loathe and blame and fear and ostracise. Often it is immigrants who serve this purpose (witness you know whom on the campaign trail), but prisoners do so even better.

Kim describes this mechanism in his speech, without using the term “scapegoat”. He traces the trajectory from the fear of crime, to the fear of criminals, to the objectification of prisoners, to their consequent dehumanisation as a “bunch of scumbags”, to their eventual deprivation of basic human rights and entitlements. The shameful media treatment of Bailey Junior Kuariki is but a symptom of this sinister scape-goating mechanism that our political leaders need to control, not exploit.

Kim finishes with several proposals for achieving a more effective long-term criminal justice strategy. His last two points bear repeating, and can be put in very simple terms: (i) involve the experts in shaping and carrying out policy, and (ii) develop a multi-partisan accord on crime and punishment (something that the major parties have resisted in the past, and for obvious reasons).

The extent to which politicians are content to use law & order sloganeering to advance their own sectional interest is the extent to which we, as a society, are not actually serious about reducing the incidence of crime and violence. Far easier – though infinitely more costly – to drive the scapegoat off into the wilderness, and when the problem doesn’t go away, to argue about whether we driven the scapegoat far enough way, or for long enough a period. We need more sanity and more humanity than that. Thank you Kim Workman for reminding us of this.