

Going Home For Christmas: Prisoners, A Taste Of Freedom And The Press

Ian O'Donnell and Yvonne Jewkes

This article explores the extent to which prisoners in the UK and Republic of Ireland are permitted to leave prison to join their families for the Christmas festivities. It is argued that the willingness to allow such absences provides insights into divergent penal policies and contrasting socio-cultural attitudes towards prisoners and imprisonment (and, tangentially, the meaning of Christmas). In the Republic of Ireland the use of temporary release for Christmas – although in decline – has been largely uncontroversial. Even when addressing prisoners who fail to return at the end of their leave, press coverage tends to be discreet and factual. Very different in style and tone are newspapers in the UK which tend only to report prisoner release schemes if the stories can be linked to themes of recidivism, pampered (and dangerous) prisoners and misplaced political correctness. Here the granting of a taste of freedom is characterised by a strong belief in the nineteenth-century principle of 'less eligibility' and the implication that prison inmates are an undeserving underclass who should be shown no goodwill at any time of the year.

In all parts of Britain and Ireland there exist procedures to allow prisoners go home for Christmas. In England and Wales, the Release on Temporary Licence (ROTL) scheme includes 'resettlement overnight/day release licences', which permit prisoners to return home, typically for between two and five days, in order to maintain family ties as they near the end of their sentences. There is also the End of Custody Licence (ECL) which authorizes prisoners serving between four weeks and four years to be released up to 18 days ahead of schedule, subject to meeting strict eligibility criteria and providing a release address. In the Republic of Ireland, the law allows for Temporary Release (TR), generally on humanitarian or family grounds or to facilitate vocational training. This can be granted on a (renewable) daily basis, or for a fixed period of time, or can extend until the sentence expiry date. Similar arrangements are

in place in Scotland and Northern Ireland.

The extent to which such provisions are availed of, and the range of responses their use evokes, provide insights into penal priorities and media preoccupations. The willingness to exercise discretion in favour of prisoners and their families says something about the emphasis a prison system places on trust. It is a more eloquent expression of faith in the individual's capacity to rise to expectations than any mission statement or set of performance measures. In this article our broad aims are twofold: first to provide a comparative account of penal policies which permit prisoners to enjoy a taste of freedom over the festive season; and second, to examine how the issue of prisoners going home for Christmas is covered in the print media, drawing on a selection of newspaper reports that relate, in the main, to 2009.

It is our belief that different approaches to reporting prisoner release are indicative of divergent socio-political cultures. In the Republic of Ireland stories concerning seasonal TR dovetail with traditional themes associated with Christmas and show traces of Christian religious values and ideals. In particular, emphasis is placed on the compassionate possibilities of justice and the potential redemption of offenders. In Britain, on the other hand, Christmas has become a highly secular and commercial affair and reporting of prisoners at this time of year is marked by discourses of consumption, greed and undeserving good fortune. These frameworks are frequently juxtaposed with themes of innocent victims distraught at the news that an offender is to be released for Christmas and 'deserving' members of the public who cannot afford the 'luxuries' enjoyed by prisoners. Here, then, we see evidence of the populist punitiveness that underpins media and political discourse more widely in Britain (Bottoms, 1995), but given an added retributive thrust – ironically – during the season of 'goodwill to all men'.

Christmas Release in the Republic of Ireland

The temporary release of a significant number of prisoners every Christmas has been, until very recently, a defining characteristic of the prison system in the Republic of Ireland. In the past this was accompanied by an annual amnesty for a select group who were nearing the ends of their sentences although, for reasons that cannot be

deciphered at this remove, reporting of the latter practice ceased in the 1980s. On several occasions – usually to mark a major religious event – more general amnesties took place. For example, prisoners were released to celebrate the Eucharistic Congress in Dublin in 1932, the Holy Year of 1950, the canonization of Oliver Plunkett in 1975, and the visit of Pope John Paul II in 1979. While this practice was motivated by a sense of Christian charity and a belief in the power of redemption, it was tempered by realism. When recommending to the government that 68 persons ‘unlikely to be dangerous to the public’ should be released to mark the papal visit, the Minister for Justice proposed that the releases should not take place until the morning of Monday, October 1st, the last of the pontiff’s three days in the country.¹ In a memorandum to government (Department of Justice, 1979: para. 3) the timing was explained in terms of a combination of logistical difficulties and fears of a burglary epidemic:

It is considered that it would be unwise to take the risk of releasing a large number of offenders during the first day of the visit when Dublin’s dwelling houses will be virtually empty and releases on Sunday would pose staffing and transport problems.

The concern about exposing households to risk was at odds with the claim that the prisoners to be released would not pose a threat to the public. Indeed, it must be said that the proposal did not find universal favour and records held in the National Archives of Ireland reveal that the Department of the Taoiseach [Prime Minister] objected on the grounds that ‘The Pope’s visit should be a time of prayerful remembrance of the *victims* of crime in our society’ (emphasis in original). Despite this resistance, the government approved the proposal. (It is not known how many of the beneficiaries responded through feats of religious observance or opportunist housebreaking.²)

It is difficult to be precise about the number of prisoners granted temporary release each Christmas. Sometimes these figures were not made public (or, if they were, we were unable to find them); or there were discrepancies between the numbers published in the press (at the time) and by the Department of Justice (months, or even years, later in its annual reports on prisons and places of detention); or the totals included a number of individuals released for Easter. While the available data do not

allow a complete time series to be constructed, one broad conclusion can be drawn with a reasonable degree of confidence. It is that there has been a steep – and sudden – decline in the granting of this privilege. On average between the early 1960s and the mid-1990s more than one in eight prisoners was allowed home for Christmas. There were some bumper years from a prisoner perspective, such as the record number of 390 in 1995, which amounted to 18 per cent of the prison population at the time. This seems to have marked the end of an era with the numbers granted Christmas leave falling thereafter against the background of a rising prison population. In 2000 there were 270 Christmas releases (9 per cent) and by 2009 this was down to 176 (4 per cent).

The Department of Justice, Equality and Law Reform explained the fading popularity of Christmas release in terms of the unavailability of suitable prisoners. In 2008 when only 107 prisoners were released (a record low of 3 per cent) the Department stated that this was because of the ‘more dangerous type’ of criminal serving time (*Irish Independent*, 24 December 2008). This explanation carries little force as temporary release is only ever given to prisoners who are assessed to be at low risk and are generally in the latter stages of fairly lengthy sentences, often in open prisons from which they could walk away any day if they chose to do so. As the prison population has grown there has been an increase in the number of such long-termers. Also, the bulk of those committed each year receive short sentences for relatively minor offences and they could surely be released without difficulty as before.

So if the official account lacks credibility, what explains the downward shift? Part of the explanation must lie in the emergence of a more diverse prison population, including a greater number of prisoners on remand (who are ineligible for temporary release) and from overseas (who may lack the requisite community contacts). But it may also indicate a punitive shift within the criminal justice system and perhaps the emergence of a less-forgiving mentality on the part of those political actors with whom the power to grant TR resides.

Despite the more cautious approach that has emerged recently, the continuation of a tradition of Christmas release into the twenty-first century, and the

lack of any real opposition to it among Irish politicians or media commentators, is noteworthy. It is our belief that this is a legacy of four factors: (1) a strong shared religious faith; (2) a small population of prisoners who were well known to staff; (3) a commitment to individualized treatment; (4) a conviction that trust, when properly targeted, will be repaid in kind.

Each of these elements would appear to be in decline or under challenge as evidenced by the fall from grace of the institutional Roman Catholic Church (Commission of Investigation, 2009), rising prisoner numbers and a more heterogeneous prison population (O'Donnell, 2008), increasing calls for consistency and standardized assessment across the criminal justice system (Kilcommmins et al, 2004: 142-76), and a hardening of attitudes towards early release, particularly for those serving long sentences (e.g. Parole Board, 2009: 2-4). In light of the foregoing it may be that a practice that survived in Ireland at a time when it would have been difficult to contemplate in other common law jurisdictions will wane just when the positive impact of early release schemes is beginning to receive a measure of empirical support (Baumer et al., 2009; Cheliotis, 2009).

Christmas Release in the UK

In England and Wales, there is less awareness of temporary release than in Ireland. Cheliotis (2009: 423) observes that 'back in the 1960s and early 1970s, when the rehabilitative ideal was at its apogee, temporary release naturally enjoyed considerable support, both amongst the general public and criminal justice professionals'. This appears not to be the case forty years on. The press do not routinely carry stories about it as their Irish counterparts do (although exceptions are made when a prisoner on release reoffends or when journalists can speculate in exaggerated tones that serious recidivism is likely) and temporary release appears not to be a strong political concern. Even academic criminology has treated the subject as being of marginal importance and interest.³

While the Ministry of Justice does not publish monthly figures on the numbers of resettlement release licences granted, making it impossible to ascertain whether there are more in December than in other months, it does publish monthly statistics on

the ECL. These show that during December 2009 there were 2,187 such releases (Ministry of Justice, 2010). It is unlikely that these inmates were allowed home early as an act of Christian charity.⁴ Nevertheless, they do not appear to have come into conflict with the law. An online 'keyword' search of Hansard, the report of proceedings in parliament, reveals that the only question concerning prisoners released on licence for Christmas came from Conservative MP Philip Davies, who asked the Secretary of State for Justice how many offences were committed by prisoners released for Christmas 2009. The reply was revealing: 'no offences' (Commons Hansard, 27 January 2010, Col. 864W).

In Northern Ireland there is a tradition and awareness of temporary release that is more akin to that of the Republic than the rest of the UK, with 'Home Leave at Christmas' being an explicit element of temporary release schemes (see McEvoy, 2001: 296-9). According to the Northern Ireland Prison Service, Home Leave at Christmas may be granted to *all* prisoners who meet the eligibility criteria and have a satisfactory risk assessment. In December 2009, 76 prisoners in Northern Ireland were released from custody to spend ten days at home, including 13 young offenders and two females (*Belfast Telegraph*, 24 December 2009).⁵

The relative generosity underpinning the approach in Northern Ireland may be partially explained by a commitment shared with the Republic of Ireland to Christian religious traditions and the concomitant sense of compassion and faith in trust repaid. In addition the small prison populations on each side of the border facilitate individualization of treatment. Politically, it can be traced back to the peace process and Good Friday Agreement of 1998, when it was declared that every political prisoner would be freed by July 2000 provided their organisations maintained a ceasefire. In December 1999, Peter Mandelson, then Secretary of State for Northern Ireland, announced that all 125 sentenced prisoners – not just those eligible under the Agreement – being held in HMP Maze would be released to spend 12 days with their families over the Christmas and millennium period before returning to jail to await permanent freedom. The initiative was implemented 'because of the climate of optimism and goodwill created in Northern Ireland by devolution' (*Independent*, 24 December 1999).

Scotland also has a tradition of allowing prisoners to go home for Christmas, but here the expressed rationale has less to do with goodwill and religious benefaction and more to do with saving money. In December 2009 the Scottish Prison Service announced that Noranside prison was to close for a week and that Castle Huntley prison would be releasing around 110 of its 175 prisoners to enjoy the festivities at home. Both are open prisons designed to house men who are coming to the ends of their sentences and to ease them back into life outside. The temporary closure went ahead despite fierce criticism of the proposal in the Scottish media, which mirrored the kind of emotive, victim-centred reporting that appears in the English tabloid press (see discussion below). Nevertheless, the news from Scotland that an entire prison was to be ‘emptied and temporarily mothballed’ (*The Scotsman*, 6 December 2009) would be unthinkable south of the border.

Reportage in the Republic of Ireland

What is striking about the situation in Ireland is the quiet, matter-of-fact way that releases from prison are reported, entailing brief statements of the numbers involved with no attempt to generate a debate around the propriety, or otherwise, of the practice. Reports are often small sidebar pieces without accompanying photographs or strong headlines. While this story is a staple for reporters looking for copy in the quiet news days leading up to Christmas, the coverage tends to be neither prominent nor sensationalized. Typical captions are along the lines of the following: ‘40 prisoners to be released for Christmas’ (*The Irish Times*, 10 December 1964); ‘Christmas amnesty for 49 prisoners’ (*The Irish Times*, 23 December 1977); ‘Minister to parole 300 for festive jail break’ (*Irish Independent*, 22 December 1990); ‘[Minister] sanctions temporary release of 290 prisoners over Christmas’ (*The Irish Times*, 25 December 2002).

Similarly, reporting the number of those released who do not return on time can be relied upon to fill a few column inches early in the New Year, but again the articles tend to be unremarkable. For example, ‘[Minister] backs jail parole – though 31 still out’ (*Irish Independent*, 8 January 1987); ‘31 prisoners “unlawfully at large”,’ (*The Irish Times*, 31 January 1997); ‘Nine fail to return to prison after brief release’

(Irish Independent, 5 January 2010).

While, generally speaking, press coverage of prisoner releases is terse, factual and depersonalized there are some exceptions. Malcolm Macarthur, who was jailed for murder in 1982 is most often name-checked in stories about Christmas TR. As one of the country's longest-serving prisoners, and a man whose crimes sparked huge political controversy at the time (when arrested he was staying as a guest of the attorney general) and literary treatment afterwards (Banville, 1989), his case has exercised a continuing fascination. Media reports are often accompanied by a photograph which shows Macarthur as a bow-tied dandy with unruly hair. This portrayal of apparent gentlemanliness stands in dramatic contrast to his conduct: the bludgeoning to death with a hammer of a nurse sunbathing in a public park (for which he received a life sentence) and the shooting dead of a farmer (which case was not proceeded with). The combination of a 'respectable' perpetrator and victims and the apparent randomness of the attacks meant that memory of these crimes was unlikely to fade quickly. Initially the news angle was that Macarthur was not being granted any time out of prison. More recently it has been to the effect that he is now allowed to leave the prison for a few hours to join his family for Christmas dinner.

Sometimes other notorious prisoners of the moment receive a mention. This is usually to state that they are not eligible to apply for temporary release (the quintessential non-story) or that if they did, their application would be denied. In recent years the killers of Jerry McCabe – a police detective shot dead by members of the Irish Republican Army (IRA) during a bank raid in 1996 – featured regularly. The emphasis in these stories was on the government's determination to be seen not to give these men preferential treatment. As we have noted already, there is a long history of IRA members and other political prisoners in Northern Ireland being released at Christmas and returning on time afterwards but in the Republic of Ireland the beneficiaries of such schemes have typically been drawn from the group sometimes referred to as 'ordinary decent criminals'; namely, prisoners whose offending had no political dimension. This is because the number of persons incarcerated for political offences south of the border is relatively small and a harsh line is taken towards them by the authorities. For some amnesties, including the one to mark the papal visit in 1979, 'subversive' prisoners were explicitly excluded from

consideration. More generally, individuals mentioned in the context of non-eligibility for a period of festive release have been recently convicted and their activities are fresh in the public mind. Also, they tend to have attracted memorable nicknames during their trials, such as Sharon ‘Lying Eyes’ Collins or the ‘Scissor Sisters’ Charlotte and Linda Mulhall.

In 2009 a large photograph of an elderly man exiting Arbour Hill prison made the front page of Christmas Eve editions of Dublin’s *Evening Herald* and an inside story was accompanied by two more images. A similar shot was reproduced over a full page in the *Irish Daily Mail* on St Stephen’s Day (26 December). The man in question was former government press secretary Frank Dunlop who was serving a two-year prison sentence for bribing local politicians to rezone land to the enormous financial gain of property developers. The photographs were of note because of the magnitude of the fall from grace of the individual concerned, the fact that his conviction was associated with a corruption scandal for which those who had profited most had not been called to account, and because of their humdrum, domestic quality. Dunlop, dressed in a sensible jumper and anorak, and with a small gift-wrapped item in one hand and a plastic shopping bag in the other, is shown being greeted by a similarly attired, but unencumbered, wife, also of mature years. They walk to a waiting car and drive away. This scene was striking in its ordinariness and made a marked contrast with the all too typical portrayals of the alienated young men in tracksuits who are usually found around prison gates. Like Malcolm Macarthur, Frank Dunlop was interesting because of his crime and his antecedents. Here was a middle-class man without prior experience of jail; another exception to prove the rule.

Even when the proportion of prisoners to be given a festive break was relatively high in Ireland, or when a number failed to return, the opposition did not try to make political capital out of the process. Charlie Flanagan, justice spokesperson for Fine Gael, the largest opposition party, when responding to a story about prisoners released for Christmas who did not come back on time afterwards, had the following to say: ‘I would be very much in favour of temporary release at Christmas time and compassionate release. But that release is based on an element of trust ... I would be concerned that if people don’t come back it impacts adversely on other prisoners who may wish to make an application’ (*The Irish Times*, 22 December 2007). Twenty

years earlier the Minister for Justice of the day (also Fine Gael) had mounted a similar defence of the system when taken to task about the number of prisoners who had failed to return, including several HIV sufferers, a cohort that caused huge anxiety at the time, when there was limited public understanding about how the disease was transmitted. The minister observed that the numbers unlawfully at large were ‘not particularly out of line with what happened in previous years’. As for giving temporary release to men with ‘AIDS antibodies’ his view was that ‘I’m not sure there’s any special cause for concern in such cases. There’s a risk factor in relationship to their temporary release at Christmas but we probably take a more permissive view in their case because of the extra psychological pressure they’re under’ (*Irish Independent*, 8 January 1987).

These responses are interesting for two reasons. First, they show a reluctance to play the law and order card by calling for the abolition of a practice that could be said to jeopardize public safety or call the justice system into disrepute. This is noteworthy given that Fine Gael has traditionally styled itself as the party of law and order. Second, concern is expressed about the interests of other prisoners and how these might be negatively affected by a policy shift, rather than attempting to engage in sabre rattling about victims’ rights or public protection; there is an appeal to a sense of fair play. In contrast, it is almost impossible to imagine that any of the political parties in Westminster would *not* seek to gain mileage from such circumstances, or that the English press would report on prisoners being under ‘psychological pressure’ with anything other than heavy sarcasm.

Reportage in the UK

In general, temporary release of prisoners does not feature in English newspapers, and is certainly not used as a ‘filler’ in the way that it is in the Irish press. However, over the festive season – traditionally a quiet news period – one or two such stories tend to crop up each year. In contrast to the restraint shown by the Irish press, the populist punitiveness that drives much reporting in England and Scotland (Carrabine, 2008; Silverman, 2010) does not allow for matter-of-fact reporting in sidebars, far less measured consideration of the potential benefits of festive home leave for prisoners. Instead ROTL at Christmas is reported almost exclusively in hyperbole, with a strong

focus on victims and potential victims. Two reports that appeared in English newspapers in the run-up to Christmas 2009 illustrate the tone that is characteristic of popular press reporting of prisoners generally in Britain:

The jail raffle ...with a day of freedom as first prize

It has to be the number one item on every prisoner's Christmas wish list. Their freedom. But there was incredulity yesterday when it emerged that one convict was to have his wish granted - as first prize in a raffle...Yesterday, Glyn Travis, assistant general secretary of the Prison Officers' Association, said: "I think prisoners buying raffle tickets with public money to win a day out where they can go and enjoy themselves is fundamentally wrong." Patsy McKie, 62, who set up the charity Mothers Against Violence after her son Dory was shot dead, said: "Anyone could win that prize – even the most dangerous man who is coming to the end of his sentence"...The prospect of a few hours of freedom was snatched away when Kirkham's governor belatedly found out about the prize and ordered that it be withdrawn (*Daily Mail*, 26 November 2009).

Mother's fury as speeding police officer who killed her daughter is released from jail for Christmas.

The mother of a 16-year-old Newcastle girl killed by a speeding police officer has hit out at the decision to release him from prison for three days over Christmas...He will be given three-days' leave from his three-year jail sentence – of which he has served just eight months – between Christmas Day and New Year's Day to visit his family. Mrs Adamson was outraged by the generous terms of his imprisonment. "Where is the justice? Christmas is the hardest time of the year for us, so to find this out has destroyed us"... "Why should he get to see his family at Christmas? We will never get to spend any time with Hayley ever again" (*Daily Mail*, 21 December 2009).

A victim-centered approach giving prominence to an official spokesperson for the Prison Officers' Association and to victims' relatives is typical of the English press. In a similar vein, but concerning a different case, the *Liverpool Echo* (28 January 2010) reports: 'Grieving mum's anger after Liverpool driver who killed her daughter gets "goodwill" Christmas prison release'.

During the festive season the British news media also enjoy reporting humorous, light-hearted or 'novelty' stories. One such story concerned a convicted drug dealer who grew a cannabis plant in his cell at HMP The Verne and decorated it as a Christmas tree (*Sun*, 5 December 2009); this coming shortly after inmates at the same prison had been discovered imbibing an alcohol-based gel used to counter swine

flu (*Guardian*, 9 December 2009). In 2009 journalists were further blessed with the story of Craig ‘Lazie’ Lynch, who absconded from HMP Hollesley Bay on 24 September. Although nearing the end of a seven-year sentence for aggravated burglary when he escaped, Lynch continued to incur the wrath of the police and prison authorities right across the festive period before he was eventually recaptured on 13 January 2010. He taunted the authorities by uploading photographs of himself on social networking site Facebook, wearing tinsel, cooking turkey and boasting that he had visited London to watch the New Year’s Eve fireworks display. He even posted a video of himself online with the caption: ‘Me in Westminster watchin the London fireworks display surrounded by thousands of incompetent pigs. I’m even recorded asking police for directions. Now lets get this show back on the road. Thankyou Your favourite fugitive’ (*Daily Mail*, 14 January 2010).

The press have always enjoyed stories about prisoners on the run because they constitute narratives that can be played out over a significant time period and have the added dimension of how/when will the runaway get caught. In the case of Craig Lynch, his willingness to flaunt himself online and boast about his exploits added an extra frisson and the story was not only played out in detail across both tabloids and broadsheets, but also attracted numerous colourful readers’ comments, most of which either ridiculed him for absconding so close to his parole date, or took the opportunity to criticise the police for failing to find him. A Facebook page set up by his supporters included a petition to release him. While Craig Lynch’s exploits provided good copy for journalists over Christmas and the New Year, the provincial press seem more likely to report stories about prisoners leaving custody early – whether legitimately on ROTL or illegally by absconding – because it is in local communities that news about a prisoner ‘at large’ has more immediate resonance. Similarly, stories about prisoners released on ECL in time for Christmas feature in the regional press where local journalists repeat the derogatory language (‘cons’, ‘felons’ etc.) of their nationwide cousins:

Dozens of convicts are to be released early from West Country jails in time for Christmas. The inmates will be freed ahead of the festive period as part of the Government's controversial bid to free up space in the creaking prison system. Since June last year, almost 1,200 convicted felons have been let out of Dartmoor, Exeter and Channings Wood prisons ahead of time, after the

Ministry of Justice admitted jails could not cope (*Western Morning News*, 2 December 2008).

The Scottish press also report prisoners on temporary release in a pejorative style. For example the release of inmates from Noranside and Castle Huntley for a week in December 2009 was described as: ‘around 200 prisoners – *including killers* – are freed to enjoy a week at home with their families’ (*The Scotsman*, 6 December 2009; our emphasis). An ‘exclusive’ report on the same story but in a different Scottish newspaper, the *Daily Record*, that appeared on Christmas Eve 2009, was accompanied by an image, reproduced on the front page and again inside, of a tattooed hand making a defiant ‘V’ sign from the window of a bus transporting prisoners home; the embodiment of unrepentance and ingratitude. The tendency to report a non-event, as noted earlier, can also be found here, the *Daily Record* observing that ‘Triple axe killer Thomas McCulloch, 60, was not eligible for a home visit’. His fate however was what the newspaper held out as the enviable one of being able to ‘enjoy five star dining’ in the prison, selecting his preferred dishes from a menu that was portrayed as far superior to anything available to the hard-working prison officers who spent the festive season at home with their families; a story that brings us to a rather different aspect of a ‘taste’ of freedom.

A Different Taste of Freedom

One feature of reporting that the English, Scottish and Irish media share is a close interest in the food served in prisons. Notwithstanding the reputation Irish prison kitchens have earned for preparing nutritious and varied meals, so bizarre is the detail into which the *Sunday Tribune* goes, reporting the menu in Arbour Hill prison where the aforementioned Frank Dunlop was being held, that it is worth recounting in full:

On his first night behind bars, the 62-year-old enjoyed a gammon steak with parsley sauce and creamed potatoes followed by stewed apple and custard. Tea that evening was fish goujons with tartar sauce and beans. Dinner on Wednesday was chicken curry and pilau rice, with a baked vegetarian burger and salad for tea. Inmates were served homemade beef burgers with pepper sauce, cauliflower and roast potatoes on Thursday and later on had homemade vegetable soup with a cheese roll. In line with the Catholic custom of not eating meat on Fridays, inmates were served breaded fillet of fish, peas and boiled potatoes for their dinner. For tea, a mini-grill was on the menu. Saturday's dinner was perhaps the least appetising, with coddle followed by

dinner and marinated chicken drumsticks and chips for tea. But things improve tonight for dinner: Dunlop will be served a pork loin chop with apple sauce, gravy, carrots, parsnip and roast potatoes, and a cheese salad and baked potato for tea. Different desserts are on the menu each day ranging from rice puddings to trifle. Breakfast each day is a choice of cereal and brown or white bread and tea (*Sunday Tribune*, 31 May 2009).

In Britain the issue of prison food is used by the media to promote the notion that prisons are ‘soft’ or resemble holiday camps. Take this report from a Scottish television website by way of example:

Some of Scotland's most dangerous prisoners will celebrate Christmas with mouth-watering choice of meals

With breakfast, lunch and tea being offered, the Scottish Prison Service said “nice food eases tension in jail”. But many will be angered as they struggle to feed their family during the recession whilst lags tuck in to tasty turkey and trimmings. The spoilt cons will be tucking into chicken or nut roast for lunch followed by Black Forest gateaux. And for their tea they can look forward to turkey and trimmings or mushroom stroganoff with basmati rice (STV, 21 December 2009, available at <http://news.stv.tv/scotland/145689-christmas-menus-for-prisoners-revealed>, accessed 2 February 2010).

In case anyone was unclear about the kinds of people being afforded such gourmet fare, or its inappropriateness in a climate of economic recession, the report continues:

Luke Mitchell, 21, who was jailed in 2005 for killing his girlfriend Jodi Jones, will be one of the violent criminals enjoying the luxurious food at Shotts Prison in Lanarkshire. But the menu has raised questions about how appropriate it is to provide such items to prisoners when Scottish families are struggling to make Christmas special in the credit crunch. Matthew Elliott, from the Taxpayers' Alliance, said: “Many law-abiding taxpayers will be outraged that inmates are enjoying luxurious food while many families are struggling to raise the funds for a decent spread” (STV, 21 December 2009, available at <http://news.stv.tv/scotland/145689-christmas-menus-for-prisoners-revealed>, accessed 2 February 2010).

Similarly, the *Daily Record* reports on what the prisoners deemed ineligible for release from Castle Huntley at Christmas would be enjoying for dinner:

Cons who are remaining behind bars over Christmas will enjoy five star dining courtesy of Castle Huntly's [sic] chefs. The inmates have already been given an a la carte menu for Christmas Day, which includes tomato, orange and basil soup, vegetarian Kiev, croquette potatoes, a medley of winter vegetables and a chocolate yule log with cream. One prison insider said: “There's a lot of

raised eyebrows at the menu - it's better food than the prison officers will get at home" (*Daily Record*, 24 December 2009).

The reports that appear in Scottish and English newspapers about the quality of Christmas dinner for prisoners, and the broader comparisons that are frequently made between the cost of school dinners for children and the (inevitably higher) cost of meals for prisoners reflect a steadfast adherence to the virtue of less eligibility; a principle which has underpinned ideas about penal conditions in Britain since the 1830s. Originally based around a practical concern that conditions within workhouses and prisons needed to be worse than the living conditions for honest people on the outside in order to discourage the poor from going to the state for maintenance and deter individuals from committing crime (Johnston, 2008; Pratt, 2002), less eligibility now has distinctly moralistic undertones (Sparks, 1996). It is frequently evoked in relation to the most notorious and newsworthy offenders, such as Maxine Carr who – such was the vitriol directed at her by the press – had to be given a new identity on leaving prison after serving half of a three-year sentence for perverting the course of justice by providing a false alibi for her boyfriend, double-murderer Ian Huntley. While she was in custody we learn that:

MAXINE Carr enjoyed an extraordinary festive knees-up behind bars... During a day of astonishing antics Carr:

- RELISHED her role as prison celebrity, teasing warders and basking in the attention of fellow inmates.
- TOLD jokes and took part in party games including Pictionary and bingo.
- ENJOYED a hearty meal, including turkey and Christmas pudding.
- BOASTED about how much she was looking forward to her “new life” once she’s freed.

Her festive joy was in sharp contrast to the devastated lives of the families of Huntley’s 10-year-old victims, Jessica Chapman and Holly Wells. While they could only reflect on their terrible loss, Carr was letting her hair down (*Sunday Mirror*, 28 December 2003).

Once again, the measured – if extraordinarily detailed – reporting of prison food in the Irish press contrasts with the shrieking hyperbole of the UK media. Like the issue of early release, any suspicion that a prison sentence can entail ‘normal’ routines and

experiences is treated by the UK press as further evidence of political correctness gone mad.

Political Cultures in the UK and Ireland

Why would politicians in Ireland be so slow to critique TR for prisoners; a practice which, as our brief sketch of similar schemes in Britain demonstrates, is so clearly open to attack? And how might we explain the contrasting reporting styles between the English and Irish press? To understand these anomalies requires some knowledge of the different political cultures that exist in each country. In England (and Scotland) political process and media discourse arguably are indistinguishable and mutually constitutive; indeed many senior politicians write for newspapers, including the tabloids. Politics and media are also both strongly characterised by populist punitiveness; a stance which is replicated in the US and in other Anglophone countries (Roberts et al, 2003).⁶ Since former UK Prime Minister Tony Blair coined the phrase ‘tough on crime, tough on the causes of crime’ (Blair, 1993) and signalled that it was possible for left-leaning political parties to compete with their right-wing opponents on law and order issues, Labour and the Conservatives have been fighting to demonstrate their tougher-than-the-other credentials.

The desire of the two main parties to occupy this territory was illustrated by both the Labour Government’s announcement in February 2010 that the ECL was to be abolished, and by the Conservative Opposition’s reaction to this news which was to claim that it amounted to a blatant piece of electioneering and that the Prime Minister was simply attempting to ‘blunt an expected Tory assault on the government’s law and order policies’ (*Observer*, 14 February 2010). The claim by Labour that the ECL was no longer necessary as a mechanism to relieve pressure on overcrowded prisons seems highly unconvincing given that the prison population of England and Wales rose from 61,000 in 1997 when Labour took office, to over 83,000 in early 2010. However, it could be said that it was in order to get elected in 1997 that New Labour, responding to a perceived public appetite for greater security and punishment, abandoned its traditional social welfare approach in favour of an excessively punitive and deliberately populist set of responses to the perceived problem of crime, including the expansion of the prison estate (Loader, 2009).

The link between public opinion and penal policy is underlined by the fact that risk assessments of temporary license applicants in England and Wales require an examination of ‘whether the purpose of release is likely to be acceptable to reasonable public opinion’ (Creighton and King, 2000: 139). While it is now well established that penal populism may represent the views of a minority of (admittedly very vocal) commentators and that the public in general may not be as punitive as is frequently assumed (Bottoms, 1995; Pratt, 2006), research has yet to be undertaken on many aspects of public opinion about penal matters, including the issue of temporary release. Cheliotis (2009) speculates that, as the public have become increasingly sceptical toward the utility of non-custodial penalties, so too are they likely to be ambivalent toward temporary release, at least so far as its rehabilitative power is concerned.

Moreover, given the UK government’s commitment to expanding prisoner numbers, any suggestion of being ‘soft’ towards convicted offenders is unlikely to be viewed as a vote-winner, especially when communicated to the public at large by a press that over-reports prison ‘perks’ and under-reports to a point of near invisibility issues such as the number of self-inflicted deaths in custody or the detrimental effects of indeterminate sentencing (Jewkes, 2007). The symbiotic relationship between media and politicians (Jewkes, 2010) is illustrated in the support given by the former to the latter in matters of law and order and the tendency of all the major political parties to express complex social policy and criminal justice initiatives in sound-bites that will capture the headlines (‘prison works’ being an infamous example). At the same time, however, when the government gets it wrong – or can be blamed for things going askew – the press have a convenient stick with which to beat ‘incompetent’ politicians.

The principle of less eligibility, with its connotations of ‘deserving’ and ‘undeserving’ individuals underpins news reports about prisoners in England and Scotland and overrides any potential competing discourse about prisoners’ rights, rehabilitation or fair play. For example, taking an opportunity to criticise a ‘working out initiative’, prisoners (or ‘Killers and drug smugglers’ as the headline put it) nearing the end of their sentences at HMP Kirkham, who were working as refuse collectors in Manchester, were accused by one organ of the press of taking jobs from

‘law-abiding workers who have... seen their hours slashed just before Christmas as the convicts have been taken on full time’ (*Daily Mail*, 4 December 2009).

By contrast, less eligibility and populist punitiveness do not appear to be features of the politico-media landscape in the Republic of Ireland to the same extent. While Irish editions of tabloid titles like the *Sun*, *Mirror* and *Mail* are published, they are less influential than their UK equivalents, with the result that typical tabloid themes – such as ‘prisons-as-holiday-camps’ and ‘dangerous prisoners’ – are not as salient in the Irish media. The broadsheets, especially *The Irish Times*, still play a pivotal role in shaping public debate.

In addition, constitutional arrangements are important. The Irish political system is based on multi-seat constituencies, a large number of public representatives, and the single transferable vote system of proportional representation. This means that elected members and parliamentary hopefuls are in competition with party colleagues as well as the opposition. To have any chance of success in the polls they must work their patch assiduously. These arrangements contribute to a form of clientelist politics where citizen concerns – no matter how minor – are taken extremely seriously. Elected representatives in the Republic of Ireland take a close interest in the administration of punishment. They lobby the Minister for Justice on behalf of constituents to remit fines or prison sentences, or to transfer a prisoner to a different institution, or to allow a period of temporary release. If politicians wish to keep open the possibility of securing favourable treatment for a constituent in need they are unlikely to raise concerns about the propriety of such practices. Furthermore, politicians of all hues hope that the chances of a successful petition will rise in the event that a party colleague assumes the justice portfolio.

Appeals for lenient treatment of prisoners are regularly made by politicians at all levels including cabinet ministers. Documents obtained under the Freedom of Information Act showed that more than 50 such representations, including some for Christmas TR, were made during 2006 and early 2007 (*Irish Independent*, 7 July 2008). One wonders how this state of affairs will be affected by the fact that since 2006 prisoners in the Republic of Ireland have been able to apply for a postal vote, thereby potentially adding volume to their voices, both collectively and as individual citizens (see Behan and O’Donnell (2008) for an account of how Irish prisoners have

responded to the possibilities offered by enfranchisement).⁷

Conclusion

Cheliotis (2009: 421) has argued that ‘Nowhere is the interplay between politics, mass media, popular will, and penal policy said to be more pronounced than in the recent history of temporary release schemes’. While this is true of a few very high-profile cases, and may certainly apply in the US following the infamous Willie Horton incident, our overview shows that it does not seem to fit with the broader picture on the other side of the Atlantic. In Ireland – despite a recent downturn in its usage – temporary release is reported routinely and mundanely and, at Christmas, the Irish press construct dominant narratives of Christian forgiveness, redemption, and the importance of good food and family. In England (and Scotland), it appears that temporary release of ‘undeserving’ prisoners is deemed to be potentially unpopular with the public at large and it is only stories that can be reported in a sensationalised manner that make the news. In keeping with broader trends that characterise press reports about prisons, stories concerning prisoners going home for Christmas tend to be themed around ‘pampered prisoners’, ‘dangerous prisoners’, ‘bureaucratic incompetence’ and ‘victims’ voices’ (Jewkes, 2007; Prison Media Monitoring Unit, 2006).

It goes without saying that the issues we have raised require more rigorous interrogation drawing on a greater diversity of media sources, different reference periods and a broader range of national comparators. Nonetheless, it might be argued that the numerous trivial and frivolous stories about prisoners at Christmas published in the English and Scottish press reflect the commercialism and frivolity with which Christmas is regarded in British society more widely. That stories in British newspapers are also characterised by notions of the ‘deserving’ and the ‘undeserving’ citizen also reflects the populist punitiveness that remains more pronounced in Britain than Ireland. By examining the use and portrayal of seasonal early release at the end of the first decade of the twenty-first century we have shown the continuing importance of deeply-rooted local contextual factors such as the relative emphases placed on principles such as redemption and less eligibility. As ever, the attempt to

make sense of one particular practice quickly exposes some of the foundational principles upon which penal policies more generally are sustained.

References

Banville, J. (1989) The Book of Evidence. London: Picador.

Baumer, E., O'Donnell, I. and Hughes, N. (2009) 'The porous prison: A note on the rehabilitative potential of visits home,' The Prison Journal, 89, 119-26.

Behan, C. and O'Donnell, I. (2008) 'Prisoners, politics and the polls: Enfranchisement and the burden of responsibility,' British Journal of Criminology, 48, 319–36.

Blair, T. (1993) 'Why crime is a Socialist issue,' New Statesman, 29(2), 27–8.

Bottoms, A. (1995) 'The philosophy and politics of punishment and sentencing', in C. Clarkson and R. Morgan (eds.) The Politics of Sentencing Reform. Oxford: Clarendon Press.

Carrabine, E. (2008) Crime, Culture and the Media. Polity Press.

Cheliotis, L.K. (2009) 'Before the next storm: Some evidence-based reminders about temporary release,' International Journal of Offender Therapy and Comparative Criminology, 54, 420-32.

Commission of Investigation (2009) Report into the Catholic Archdiocese of Dublin. [Murphy Report]. Dublin: Department of Justice, Equality and Law Reform.

Creighton, S. and King, V. (2000) Prisoners and the Law. London: Butterworths.

Department of Justice (1979) 'Memorandum for the Government: Proposed Amnesty for Offenders in Custody', 20 September. National Archives of Ireland, TAOIS/2009/135/635.

Jewkes, Y. (2007) 'Prisons and the media: The shaping of public opinion and penal policy in a mediated society' in Y. Jewkes (ed) Handbook on Prisons. Cullompton: Willan.

Jewkes, Y. (2010) Media and Crime. 2nd edition. London: Sage.

Johnston, H. (2008) 'Less eligibility', in Y. Jewkes and J. Bennett, J. (eds.) Dictionary of Prisons and Punishment, Cullompton: Willan

Kilcommins, S., O'Donnell, I., O'Sullivan, E. and Vaughan, B. (2004) Crime, Punishment and the Search for Order in Ireland. Dublin: Institute of Public Administration.

Loader, I. (2009) 'Ice cream and incarceration: On appetites for security and punishment', Punishment & Society, 11, 241-257.

McEvoy, K. (2001) Paramilitary Imprisonment in Northern Ireland: Resistance, Management and Release. Oxford University Press.

Ministry of Justice (2010) 'End of Custody Licence releases and recalls December 2009 England and Wales', available at:
<http://www.justice.gov.uk/publications/docs/ecl-releases-recalls-december-2009.pdf>,
accessed 2 February 2010.

Newburn, T., and Jones, T. (2005) 'Symbolic politics and penal populism: The long shadow of Willie Horton', Crime, Media, Culture: An International Journal, 1, 72-87.

O'Donnell, I. (2008) 'Stagnation and change in Irish penal policy,' Howard Journal of Criminal Justice, 47, 121-33.

O'Donnell, I., O'Sullivan, E. and Healy, D. (2005) Crime and Punishment in Ireland 1922 to 2003: A Statistical Sourcebook. Dublin: Institute of Public Administration.

Parole Board (2009) Annual Report 2008. Dublin: Parole Board.

Prison Media Monitoring Unit (2006) Monthly Bulletins, February, March, April 2006, available at <http://www.jc2m.co.uk/pmmu.htm>, accessed 2 February 2010.

Pratt, J. (2002) Punishment and Civilization: Penal Tolerance and Intolerance in Modern Society. London: Sage.

Pratt, J. (2006) Penal Populism. London: Routledge.

Roberts, J.V., Stalans, L.J., Indermaur, D. and Hough, M. (2003) Penal Populism and Public Opinion: Lessons from Five Countries. New York: Oxford University Press.

Silverman, J. (2010) 'How Tony Blair fed the feral beast of the media and savaged the criminal justice system', Howard Journal of Criminal Justice, 49, 166-9.

Sparks, R. (1996) 'Penal Austerity: The Doctrine of Less Eligibility Reborn?', in R. Matthews and P. Francis (eds.) Prisons 2000, London: Macmillan.

Notes

¹ The average prison population in the Republic of Ireland in 1979 was 1,140 (O'Donnell, O'Sullivan and Healy, 2003: 153).

² The country's main custodial facility for young offenders, St Patrick's Institution, is located a short distance from the Phoenix Park where more than one million people attended an open air mass celebrated by John Paul II in 1979. Ironical echoes of the papal visit could be heard on the landings there in the late 1990s by which time some of the many babies named in the pope's honour had become troublesome teenagers and a succession of 'John Pauls' was appearing behind bars.

³ The *Handbook on Prisons* edited by Jewkes (2007) runs to 808 pages and thirty chapters and contains but a single, brief reference to temporary release in relation to end of custody licences and a definition of ROTL in the Glossary.

⁴ This is borne out by the fact that, in the previous two months, the number of prisoners released on ECL was higher, at 2,400 in both October and November (<http://www.justice.gov.uk/latestupdates/endofcustodylicence.htm>, accessed 2 February 2010).

⁵ There were 921 sentenced prisoners in Northern Ireland in December 2009 (see Population Reports at <http://www.niprisonservice.gov.uk>, accessed 11 February 2010).

⁶ The subject of temporary release of prisoners is a particularly emotive issue in the United States, because of the 'long shadow' cast by the Willie Horton case, where a prisoner serving a life sentence for homicide was the beneficiary of a weekend release program. He did not return and ultimately he committed assault, armed robbery and rape. The case became a *cause célèbre* in the 1988 US presidential campaign and Newburn and Jones (2005) go so far as to argue that it has had a far-reaching impact on electoral and criminal justice politics beyond America, including in Britain.

⁷ By contrast, and again reflecting a different brand of penal politics, the UK government has been reluctant to allow prisoners vote. This is despite a clear ruling from the European Court of Human Rights in 2004 in the case of *Hirst v United Kingdom* that a ban on all convicted prisoners voting was 'arbitrary and disproportionate' (<http://www.liberty-human-rights.org.uk/pdfs/policy07/prisoners-voting-rights.pdf>, accessed 2 February 2010).