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Introduction



I am delighted that this bulletin really showcases the work of early career academics. It certainly highlights the quality and range of research being undertaken, and it is equally apparent that the subjects that interest you have relevance to the debates that we engage with at the Howard League every day.

We have included articles by two of the best PhD paper winners from last year's *What is Justice?* conference, Anna Glazewski and Daniel Horn. I am keen to see how their ideas feed into the work of the *What is Justice?* symposium in the coming year. Look out for more events and opportunities to add your voice to the symposium, and do listen to our latest *Ideas for Justice* interviews with Professors [Mary Beard](#) and [Albert Dzur](#).

Finally, I would like to thank all of you who took the time to complete our survey and to congratulate Jason Roach, Reader in Criminology at the University of Huddersfield for winning our prize draw.

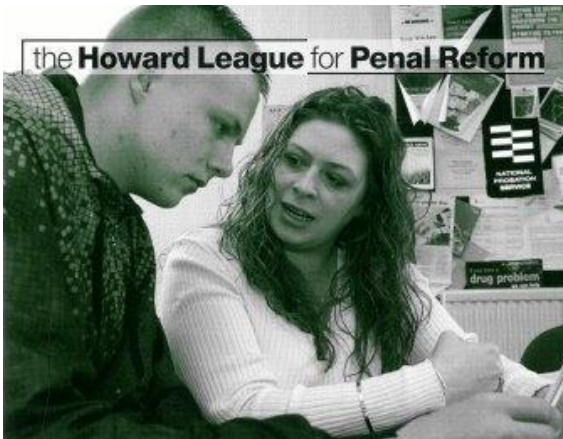
Anita Dockley, Research Director

News

Deaths in custody

Data compiled by the Howard League has shown that 2013 saw a considerable rise in the number of suspected murders and self-inflicted deaths in custody. The charity called for 'urgent action' to address the issue, as prison suicide rates for 2013 were the highest in six years, and the number of homicides were the highest since 1998. The Howard League stated that these figures indicated 'deep structural problems' in the current system, and were the 'consequence of a policy that squanders a scarce resource, meaning that these institutions cannot keep people safe'.

Professionalising the probation service



Professionalising the probation service: Why university institutes would transform rehabilitation

In December the Howard League hosted an event in Parliament to launch another publication in the 'What If...?' pamphlet series. The pamphlet, [*Professionalising the probation service: Why university institutes would transform rehabilitation*](#) was written by Professor Jonathan Shepherd, Professor of Oral and Maxillofacial Surgery and Director at the Violence Research Group, Cardiff University, and advocated the establishment of a national institute for probation similar to the College of Policing or the BMA. On the day of the launch it was announced that a Government-funded probation institute had

been initiated, and would be supported by a partnership of the Probation Chiefs Association (PCA), Probation Association (PA), Napo and UNISON, working with the Ministry of Justice.

Titan prisons



There has been concern about the Government's announcement that a 2,000-place prison is to be built in Wrexham. The Howard League stated that large prisons pose a number of problems concerning prisoners' health and wellbeing; levels of violence and self-harm are much higher and quality of education, training and assistance with issues such as homelessness are generally much better in smaller prisons. The charity rejected the claim that building the prison will bring jobs to the surrounding area. Robert Jones, from the Institute of Welsh Affairs explained that it is unlikely that local people will benefit from the prison, as only a small proportion of jobs will be available and the majority of these are junior roles. Jones also stated that areas with large prisons in America have higher levels of poverty, unemployment and lower wages than similar towns without prisons.

Fortified schools

The Howard League expressed concern following news of plans for 'secure colleges', stating that these institutions would replicate 'the mistakes of the past.' The charity stated that efforts to reduce the number of children

in prison have been successful as community plays a pivotal role in preventing a child's pathway into crime. Frances Crook stated that privately run secure colleges had failed to provide for the 'complex needs' of the children in their care, and that the death of children in custody was a continuing problem.

Legal Aid



Responding to the Joint Committee on Human Rights report on legal aid, the Howard League stated that it 'raised serious questions' about the government's 'assault' on a means of supporting some of the most vulnerable members of society. The Howard League explained that for most children in custody, 'access to legal aid is the only gateway to force authorities to give the support they need to settle into a crime-free life on release. It can also help them get on to courses in prison that will help them change their ways. Without this lifeline, many children face an uncertain future, potentially ending up homeless, becoming victims of abuse, and returning to crime.' The Howard League engaged with peers in the [recent debate](#) about the changes.

Standing firm on the Human Rights Act

Frances Crook was one of over a hundred signatories of a [letter to The Telegraph](#) urging Britain's political leaders to 'acknowledge the continued relevance of human rights globally and here at home.' The letter featured leaders of civil society groups from around the country, representing a range of human rights issues.

NAO report on community sentences

The Howard League welcomed a report from the National Audit Office that the number of people being sent to prison should be reduced. Responding to *Managing the prison estate*, Andrew Neilson, Director of Campaigns at the Howard League for Penal Reform, stated that cutting the number of people serving custodial sentences would reduce demand on a system that is 'struggling to offer purposeful activity such as work, training and rehabilitation.' He went on to state that the 'NAO also find that decision-making has sometimes traded good quality and performance for greater savings' and that 'the result will be more crime and more victims of crime in the long run.'

G4S and Serco



The Howard League welcomed the withdrawal of G4S and Serco as prime contractors from the Transforming Rehabilitation programme, stating that the firms had an 'exceptionally concerning record running justice services'. The Howard League added that the plan to 'sell off probation' had a detrimental effect on the public probation service. G4S have been under scrutiny since details emerged of violent incidents at HMP Oakwood in January. In October, the chief inspector of prisons, Nick Hardwick, reported that inmates referred to the jail as 'Jokewood'. These developments cast further doubts on the justice privatisation model.

Sport in prison

Rosie Meek, Head of Criminology and Sociology, Royal Holloway University of London

Introduction

The unprecedented levels of political and public interest currently being enjoyed by sport and physical activity may have been boosted by the success of the London 2012 Olympics, the aftermath of which has heightened awareness of the power of sport to promote social, psychological, and physical well-being. A substantial body of academic literature has long been devoted to the role of sport in promoting social cohesion and psychological well-being. Although this literature has not been widely considered in penal settings so far, sport – as with the arts – has increasingly become recognised – anecdotally and in policy – as a means through which to engage with even the most challenging and complex individuals caught up in a cycle of offending and imprisonment. Applying established non-criminological research in a criminal justice context might lead us to assume that sport can make a valid contribution by offering an alternative means of excitement and risk-taking to that gained through engaging in offending behavior, or that it can also serve to promote desistance by providing an alternative social network, access to positive role models and a legitimate form of agency and expression.

I became curious about the role of sport in our prisons several years ago when I was commissioned to carry out an evaluation of a sports-based resettlement programme running in a Young Offender Institute as part of Ian Wright's *Football Behind Bars* TV show. Like any good academic (!) I sought relevant existing literature to inform my research and was surprised to find very little, so I set about designing a substantial programme of research to respond to this limited academic focus. This research culminated – several years later - in a book, *Sport in Prison: Exploring the Role of Physical Activity in*



Correctional Settings. Separate chapters are devoted to different aspects of the prison landscape, diverse populations, relationships and processes. In the course of gathering a large body of qualitative and

quantitative data I was able to observe a broad range of prison-based sports projects, both here and abroad, and have included numerous examples of what I see as innovative – but often sadly infrequent or unsupported – practice throughout the prison system.

This may be the first book to explore the role of sport in prisons and its subsequent impact on rehabilitation and behavioural change, but I was able to draw on research literature on the beneficial role of sport in community settings from disciplines, including criminology, psychology, sociology, and sport studies. I have tried to unpack the meanings that prisoners and staff attach to sport participation and interventions in order to understand how to utilise and learn from sport most effectively, while identifying and tackling the key emerging issues and challenges.

Among the general population, the benefits of regular physical activity to psychological and physical health are well understood and participation in physical activity is recognised as an important contributor to well-being and quality of life for people of all ages. We know that those who are more physically active tend to live longer, healthier lives, an outcome of increased functional and cognitive capacity, reduced anxiety and depression, the prevention of obesity, and the diminished

likelihood of developing chronic diseases. Social and psychological benefits include improved opportunities for social contact and the promotion of social inclusion and community cohesion.

Increasing or maintaining physical activity, particularly among those who are sedentary, is therefore a major goal of health and fitness professionals, psychological services, and health care providers, and as communities that house those with an increased likelihood of significant health needs, prisons represent an especially important target population. Indeed, recognition of the role of physical activity in promoting prisoner well-being is reflected in the Prison Service Physical Education operating manual which states that:

PE plays an important part in a prison regime by providing high quality purposeful activity and engagement with prisoners; in addition PE can make a major contribution to the physical, mental and social well-being of prisoners.
(HM Prison Service, 2009, p. 4)¹

Contemporary policy regarding the use of sport with people who offend—in line with social policy more widely—has increasingly advocated the use of sport and physical activity as a vehicle for achieving non-sport policy objectives. There is a strong body of evidence suggesting that, aside from the well-established psychological and social benefits, the provision of physical activity represents a simple intervention which can ameliorate the negative health effects of a sedentary lifestyle in prison. Of course, despite an expectation that prisoners should spend a significant period of time engaged in ‘meaningful activity’ each day, prisoners consistently report highly sedentary

lifestyles in custody, with extended periods of time spent within their cells. Men, women and children in prison are typically less likely than those in the community to participate in widely accepted standards of sufficient physical activity.

Research overview

The research aimed to be sufficiently detailed to capture the particular experiences of prisoners and prison staff from specific institutions and representatives from associated organisations but general enough to be applied nationally and internationally. Permission was sought and granted by the Ministry of Justice to gather data from prisons throughout England and Wales, followed by approval from governors or research coordinators at each of the individual establishments that participated.

Recognising the value of combining different methodological approaches in order to generate a robust research design, to capture fully the details of a particular topic, and to establish the most valuable theoretical contribution, a variety of quantitative and qualitative techniques were employed. Primary data were also collected from a number of sources, specifically:

1. A series of interviews and focus groups were carried out with a total of 152 prisoners and newly released ex-prisoners (107 males and 45 females), with almost a half of these interviewed two or more times, either while in custody ($n = 54$), or both in custody and after release ($n = 24$).
2. A national structured interview/survey of the managers of prison gyms ($n = 52$) capturing qualitative and quantitative data from establishments of different categories (security level, type of prisoner accommodated) and representing public sector ($n = 47$) and privately-run ($n = 5$) prisons throughout England and Wales. All prisons operating in England and Wales during the period of data

¹ HM Prison Service (2009) *Prison Service Physical Education operating manual*. London: Ministry of Justice

collection were invited to participate, resulting in responses from over a third of all establishments.

Supplementing the gym manager surveys, in-depth research visits ($n = 21$) were carried out at gym departments operating across the prison estate in England and Wales in order to observe practice, interview staff and prisoners, and identify good practice case studies. These case studies punctuate the chapters that follow and aim to capture the way that individual establishments have drawn upon sport and physical activity in order to find innovative and effective ways of responding to the challenges present within prison establishments and criminal justice systems.

3. Individual semi-structured interviews were carried out with relevant stakeholders ($n = 46$) including those involved in overseeing and implementing sport in prison, prison governors and senior managers, prison and probation staff, employers in the sport and fitness industry, and representatives from the voluntary sector and sporting organisations.
4. Questions relating to participation in sport and physical activity were integrated into a wider survey of young adult male prisoners ($n = 67$) and women prisoners ($n = 190$).

Primary data were supplemented with a secondary analysis of key policy documents, Ombudsman reports, and Prison Service Instructions, as well as official prisoner participation figures obtained using requests under the 2000 Freedom of Information Act, which is emerging as a valuable but rarely-used social science research approach. Extensive use was also made of HM Inspectorate of Prisons reports, given that these are published for every prison establishment in England and Wales and contain detailed information on all aspects of

the regime, thus allowing for some comparisons over time and across different establishments.

Summary of findings

This work represents an attempt to present, from an independent academic standpoint, a comprehensive overview of the research evidence accumulated over a period of several years of researching prisons, prisoners, prison staff, and community organisations which work with prisoners, and the role that sport and physical activity plays for each of these. As a psychologist I was especially interested not just in observing and theorising the prison gym itself but in identifying, revealing, and debating the narratives of those who work in and engage with prison-based sport and physical activity and the rhetoric of those decision makers who prescribe the ways in which prisons make use of physical activity.

Initial chapters introduce some of the historical developments of the role of sport and physical activity in prisons and demonstrate how, just as we see the contrasting notions of punishment, containment, and rehabilitation separately constructed and contested in characterisations of the primary purposes of imprisonment, there are also substantial differences in the competing concepts of exercise, leisure, and physical education or activity and their roles in prison regimes and penal practices. Alongside the continued increase in the numbers of people detained in prison, recent years have seen significant changes in the management and staffing of prisons generally and prison gyms in particular, substantial efforts to reduce the running costs of prisons, and an increased commitment to efforts to reduce reoffending, all with implications for the delivery of sport and physical education in prison settings. In summarising the evidence base for the role of physical activity in meeting broader non-sport policy objectives, the perceived impact of sport on physical, social, and psychological outcomes is introduced

alongside the academic rationales for such perspectives and a discussion of prison masculinities. The chapter concludes with a summary of the most relevant national and international legislation informing the provision of sport and physical activity in prison, examples of organisations seeking to use sport to promote social change, and global applications of the use of sport in prison.

This is followed by an exploration of the way in which, although various regulations stipulate that prisoners should be able to participate in minimum standards of physical activity and exercise, wide variation is apparent in England and Wales, not just across the prison estate but also between different establishments of the same type. Official data in the form of prisoner participation levels is presented, confirming that juvenile establishments have the highest levels of prisoner participation in contrast to female establishments where participation is the lowest in the secure estate. These official figures are supplemented with observations from hundreds of Inspectorate reports and the findings of the national survey of prison gym managers, exploring how and why the prevalence and different uses of sport and physical activity are apparent across the prison estate. Extending the survey focus to the perceived benefits of and challenges associated with delivering sport in prison, in-depth interviews with members of prison gym staff and senior managers serve to explain varied participation in sport, referring to the factors which contribute to organisational-level support, variation in resource and types of regime, and the challenges associated with promoting physical activity among a varied and diverse prisoner population.

Issues of equality and inclusivity are explored, with a particular focus on the challenges associated with promoting physical activity among 'non-sporty' prisoners without replicating or increasing

existing inequalities. Extending this, consideration of the particular needs of vulnerable prisoners (specifically those unwilling or unable to engage in the wider prison regime or at risk of victimisation or self-harm) leads to a discussion of the role of sport in reducing anxieties, improving mental health, and promoting therapeutic interactions. Specific attention is paid to particular groups of people who offend, including those with physical and learning disabilities, older prisoners, individuals convicted of sex offences, and those held in high-secure facilities, followed by a discussion of minority ethnic groups and foreign national prisoners, describing their over-representation in the prison system and making links with existing research into participation in sport according to ethnicity. Lastly, recognising that the ten Immigration Removal Centres currently operating in England and Wales make up part of our prison system, the chapter concludes by considering the particular needs of detainees and the unique role of sport and physical activity in meeting those needs.

A separate chapter is devoted to exploring how and why female prisoners are significantly less likely to participate in sport and physical activity than male prisoners or females in noncustodial settings. Summarising the research evidence supporting the gender-specific benefits of participation, a strong case is made for the role of sport in meeting the particularly complex and unique needs of female prisoners. Survey responses from 190 female prisoners and individual interviews with 45 women demonstrate the recognised importance of using physical activity to respond to the enhanced levels of unmet physical and mental health needs of female prisoners and in promoting education and employment opportunities while also highlighting the perceived barriers to participating in prison sport for women and girls.

Chapter 6 explains that in the context of contemporary youth justice policy, the tension between the competing goals of welfare and justice can be exacerbated in sports-based interventions, and although sport has become widely used as a social cohesion or inclusion strategy in community settings (with the majority of such initiatives targeting children and young people in particular) such focus has not necessarily translated to the secure estate, despite the fact that the importance placed on sport as a 'moral good' for children and young people has become ingrained in political rhetoric. Assumptions that participation in sport can divert young people from criminal behaviour may be partially explained by a recognition that adolescence and emerging adulthood are characterised by identity exploration and that sport can provide a meaningful and positive sense of self, as well as offering an opportunity to improve social, interpersonal, and life skills while providing a positive use of leisure time (although some of these assumptions are subsequently challenged).

Methodological shortcomings in the evaluation of sports initiatives which seek to inhibit youth offending may prevent a conclusive claim of their effectiveness but given that sport and physical education remain comparatively prominent features of youth incarceration (participation figures for juveniles and young adults are among the highest across the secure estate), a case is made for using sport as a rehabilitative, therapeutic, health promotion, or educational tool. Use of, and provision for, sport in such ways remains varied, with existing evidence (in the form of Inspectorate reports) and newly gathered data from staff working in young offender institutions confirming that sporting opportunities depend heavily on local resources and preferences, which in turn are largely predicted by the design of an individual prison and the facilities afforded to it. The chapter concludes with a summary of why exploring innovative and effective ways

of working with young prisoners is especially important, highlighting the ways in which sport can and does respond to the need to achieve a broad range of positive outcomes for young people in custody as well as after their return to the community.

Extending the focus on sport's contribution to a range of positive outcomes in youth justice settings, I then looked specifically at evidence for the role of sport in efforts to reduce reoffending and promote desistance from crime. Given the high reconviction rates among those who have completed a custodial sentence, interventions and initiatives targeting those in prison have become a prominent feature of the government's 'rehabilitation revolution.' Utilising sport as a way of responding to the factors that are known to contribute to reoffending (such as attitudes to crime, education and employment opportunities, and mental and physical health) would therefore be expected to play a part in formalised efforts to reduce reoffending. Likewise, aligning sports initiatives with factors associated with the promotion of desistance from crime—such as developing a commitment to a prosocial identity as an alternative to that of somebody who offends, reducing stigma and developing the necessary social and cultural capital to enable ex-prisoners to 'go straight'—were predicted to have a meaningful impact, with staff observations and prisoner interviews corroborating this. In meeting these resettlement and desistance aims and aspirations, the particular importance of community partnerships is a theme developed throughout the chapter, illustrating the importance of involving external organisations at a number of levels, including the critical element of providing meaningful and effective through-the-gate support for those preparing to leave prison custody and the role that sport may play in this.

The final sections of the book maintain a focus on the use of sport in

meeting resettlement needs, with a summary of a quantitative and qualitative evaluation of a resettlement sports-based project and an in-depth exploration of education and employment opportunities and health promotion in prison and the unique role of physical activity in contributing to these primary concerns, as well as exploring ways in which physical activity plays a pivotal role in promoting order and control throughout prison establishments, in reducing violence, and in enabling prisoners to adapt to and cope with incarceration. Data from staff and prisoners illustrates the increased importance placed on sport in prison settings and the reasons behind and implications for this prominence are discussed alongside consideration of the ways in which engaging in sport can provide unique opportunities to promote notions of 'citizenship' among prisoners.

Having devoted previous chapters predominantly to the benefits and potential role of sport and physical activity in responding to a range of broader objectives in the running of prisons and the management of those who offend, I then challenge some of the assumptions inherent in debates around the role of sport and physical activity, not just in prison settings but in its wider uses. I suggest that the relationship between participation in sport and offending is more complex and indirect than might be assumed, and alongside findings supporting the rationale that participation in sport can reduce offending in a number of ways, evidence is also presented of some unintended negative consequences of participation in different types of sport.

Likewise, the notion that sport's cathartic effect in reducing aggression and improving social control is based on robust evidence is contrasted with the counterargument that engaging in some types of sport or being over-committed to a 'sport ethic' may lead to an increase in the perceived legitimacy of aggressive behaviour, lower levels of moral functioning, and heighten the risk of body image anxieties and self-presentation concerns (which may lead in turn to the illicit use of performance enhancing substances). Of course, unless managed carefully, sport has the capacity to replicate and create social inequalities and conflict and introduce new power dynamics and opportunities for bullying and intimidation, as well as undermining security concerns in the provision of physical activity.

Recognising that prison gym staff remain an under-researched population, I conclude by setting out some of the operational and organisational issues associated with staffing the prison gym, exploring the processes and dynamics at work in interactions between staff with responsibilities for Physical Education and those in their care, as well as the importance of physical activity for staff themselves and how it may contribute to staff and their well-being and the resulting improved performance of individual prisons.

Dr Rosie Meek is the Head of Criminology & Sociology at Royal Holloway University of London. *Sport in Prison: Exploring the Role of Physical Activity in Correctional Settings* is published by Routledge. A review of this book will appear in the next issue of ECAN.

From restrain to retain: The state's power to punish and prison privatisation under the prism of human rights law

Anna Glazewski, PhD candidate, Université Paris II Panthéon

This paper won the best PhD paper competition at the Howard League's *What is Justice?* conference in October 2013.

In 1993, Professor Nils Christie wrote that citizens of western countries were used to an idea of justice detached from economic questions. He offered a prescient analysis of how such an idea was about to be undermined by mass incarceration and private (for-profit) interests in the justice sphere. Today, prison privatisation illustrates the changing nature of perceptions of justice. Indeed, studying this phenomenon under the prism of human rights law, it can be demonstrated that prison privatisation has reshaped the concept of the state's monopoly on punishment.

Human rights law provides a relevant analytical framework to examine whether prison privatisation would have any reason to exist if people, that is, prisoners, were not deprived of liberty. It is interesting to look at the protection of prisoners' rights in the particular context of prison privatisation, because international human rights law reflects a form of

international consensus on what is acceptable and what is unacceptable concerning the treatment of prisoners. It may sound obvious, but private prisons deal in custody, a form of punishment that is framed and regulated by human rights law.

As well as focusing on human rights law, this analysis is based on one important premise: prison privatisation is not a simple technical arrangement, with no impact on a prisoner's experience, because a third party is interfering in the traditional two-party legal relationship linking the state and the prisoner in human rights law. From the prisoners' perspective, this third person is often the prisoner custody officer. He or she has a daily impact on the prisoner's life.



Therefore, the pro-privatisation argument about making a distinction between allocation of punishment (that should stay in the public sector) and administration of punishment (that can be given to the private sector) is null and void. A

prisoner's liberty is not only limited by the judge who sentences them to prison, but also by prisoner custody officers, who have a daily impact on the lives of prisoners.

Initially, my research focused on studying the protection of prisoners' rights in the triangular relationship created by prison privatisation. I was then able to outline an evolution in the legal nature of the state's monopoly on punishment, and the potentialities of such evolution for issues other than incarceration. It is possible to divide this evolution into three steps.

1. State punishment and human rights law: The state's duty to restrain its power to punish.

The emergence of human rights law has followed a need for the rationalisation of state powers, notably expressed by philosophies of the Enlightenment, at the end of the eighteenth century. A good example of this logic is the principle 'no punishment without law', often attributed to the work of Cesare Beccaria (1764). Today, this principle is broadly introduced in national constitutions and international instruments.¹ Beccaria argued that through individuals relinquishing their liberty as part of the social contract that the state had the right to punish. The right to punish is therefore limited through an idea of justice

that relies on the necessity of providing the greatest liberties for individuals. Today, an example of this logic of limitation can be seen in the prohibition of the death penalty.² Inter-state complaint mechanisms, set up by international treaties on human rights law, also demonstrate an idea of mutual limitation.³

This logic of limitation implies, of course, recognition of the state's power to punish – there is no need for limitation if state power does not exist. To put it in provocative terms, it is taken for granted that the state's power to punish is a state attribute. Legally, however, it does not mean that the existence of this power is considered a state monopoly.

In law, the idea of the state's 'power to punish' corresponds to the power to judge, the power to impose a penal sanction, and the power to effectively enforce such a sanction. The power to judge, exercised through the judiciary, is a legal 'monopoly': persons arrested and charged with an offence must be brought to the judiciary to be judged.⁴ On the contrary, international norms do not require the enforcement of sanctions to be carried out by the state. There is no legal norm that gives convicted individuals and arrested individuals the right to be detained in state-managed prisons. Yet, the idea of privatising prisons should be questioned under human rights law, and this has been done both at the international and the domestic level.

2. Human rights law violations in private prisons: The state's duty to retain its liability

The principle generally identified in international law is that the state must remain responsible for human rights violations occurring within the private sphere. Observations made by the Human Rights Committee (HRC), the body responsible for the monitoring of the International Covenant on Civil and Political Rights (ICCPR),⁵ emphasise this point. Indeed, the HCR approach on prison

privatisation is the most developed and complete among those developed by international treaty bodies, with an approach that has evolved over time.

Firstly, in the mid-90s, the HRC expressed its concerns at the development of this phenomenon in the UK. It suggested that privatisation could potentially weaken the protection of rights under the Covenant.⁶ Therefore, the Committee underlined that the 'State party remains responsible in all circumstances for adherence to all articles of the Covenant'.

Secondly, in 2002, when examining the protection of covenant rights in New Zealand, the Committee repeated its concerns about the principle of prison privatisation. It narrowed its observation to article 10 of the Covenant, which provides that 'all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person' and deals with prison regimes and the treatment of prisoners. Prisoners held in private prisons should not be deprived of article 10 guarantees.

More recently, in 2010, the Committee repeated its concerns about prison privatisation in New Zealand, but this time, it coupled article 10 with article 2, which deals with states' general obligations under the Covenant:

*It remains concerned as to whether such privatization in an area where the state party is responsible for the protection of human rights of persons deprived of their liberty effectively meets the obligations of the state party under the Covenant and its accountability for any violations, **irrespective of the safeguards in place.***⁷

Here, we can see a move towards questioning the principle of prison privatisation, though the Committee does not clearly say whether privatisation would violate the Covenant. What is certain is that the state must retain its responsibility in the

case of human rights violations occurring in a private prison.

3. Human rights law and the principle of prison privatisation: The state's duty to retain its power to punish

Recently, the Israeli Supreme Court made the decision to invalidate prison privatisation, constituting a turning point in the legal conception of the state's monopoly on punishment. In March 2004, the Knesset issued an amendment, the Prison Ordinance Amendment Law No 28 (hereafter amendment 28). It provided that the state of Israel would establish a prison, the management of which would be contracted out to a for-profit corporation. One year later, amendment 28 was challenged in Israel's Supreme Court. The court decreed that a private prison disproportionately violated constitutional rights to personal liberty and human dignity (the Basic Law: Human Dignity and Liberty). The legal issue was presented as follows:

whether and to what extent the state – and especially the government, which is the executive branch of the state – may transfer to private enterprises the responsibility for carrying out certain tasks that for years have been its exclusive concern, according to the basic constitutional principles of the democratic system in Israel, when those tasks involve a significant and fundamental violation of human rights.

The Court examined the very principle of privatising prisons, and concluded with a majority of eight against one,⁸ that it was in clear contradiction with both individual freedom and the principle of human dignity – two rights that have equivalents in international legal instruments [see ICCPR Art. 9(1) and Art. 10]. The Court's rationale was the following: in itself, imprisonment is a denial of personal liberty. Such human rights violations can only be justified where it furthers public interest. Prison privatisation

generates a system relying on the private for-profit motivation of the concessionaire. Therefore, prison privatisation is an additional and therefore illegitimate denial of individual liberty.

As to the right to dignity, the Court considered that delegation of invasive powers to a private for-profit corporation undermined the public purposes of punishment, which are crucial in order to legitimate punishment on the grounds of human dignity. Additionally, the majority condemned the vision of prisoners as a 'means for the private corporation to make profits', adopting a very Kantian conception of justice. Such violations could not be balanced, or compensated, by the public interest in that case. Indeed, it was clearly demonstrated that the main motivation for issuing Amendment 28 was to save money. Thus, resorting to a test of proportionality, the majority of the Court considered that 'the violation deriving from giving imprisonment powers to a private profit-making corporation is *disproportionately greater* than the additional public benefit that will allegedly be achieved by amendment 28'. Human rights law, with this judgment, has been used to prevent the state from outsourcing the power to enforce incarceration.

4. Analysis and consequences

Does recognising a state's duty to retain a monopoly on punishment amount to reinforcing the state's power to punish? I argue that this is not the case, and the Israeli case should be seen as an attempt to limit the state's power to punish.

To the Israeli Supreme Court, prison privatisation was much more than a simple technical arrangement. I quote the Court's President:

the very existence of a prison that operates on a profit-making basis reflects a lack of respect for the status of the inmates as human beings, and this violation of the human dignity of the

inmates does not depend on the extent of the violation of human rights that actually occurs behind the prison walls⁹

The President emphasised:

*a violation of human dignity may also be an 'independent' violation, when a certain act that is done or a certain institution that is created do not inherently violate other human rights, but they reflect **an attitude of disrespect from a social viewpoint towards the individual and his worth as a human being.***¹⁰

It should be noted that when a state decides to delegate incarceration to private companies, the state implicitly expands the scope and means of incarceration. Incarceration becomes an economic activity, and this activity has an expansive nature, which was heralded 20 years ago by Nils Christie. In the Court's analysis, there is a moral injunction, a reaction to the phenomenon of mass incarceration and commercial interest, expressed with reference to the public interest, the social sphere, and human dignity. It is not surprising that the Court grounded its reasoning on the right to dignity. Indeed, this is reminiscent of Professor John Pratt's affirmation when, ten years ago, he looked at the expansion of incarceration in western English-speaking countries: 'There are likely to be natural limits to it, there are likely to be moral limits to it' (Pratt, 2002). Although some would argue that human dignity as a legal ground was chosen because its meaning is hard to define precisely, and it can therefore be used to describe different ideas (McCrudden, 2008), I suggest that nature and morality are precisely brought together in the concept of dignity. As a result of the rich argument put forward by Israeli judges, the rejection of prison privatisation on the legal ground of human dignity indicates the need for a limit to the expansion of mass incarceration.

There are other potential consequences beyond incarceration. Could the Israeli reasoning be extended to other activities conducted by private agents in the penal sphere? The starting point for the Israeli Supreme Court's reasoning was that incarceration is in itself a denial of personal liberty, thus a violation of human rights; such violation is legitimised only where it furthers public interest. Such reasoning seems *prima facie* unlikely to be adaptable to activities such as private health services for prisoners. Indeed, this activity is not considered to be, in itself, a violation of fundamental rights, but rather an accessory of incarceration. My point is that because of the detention context, this activity impacts on prisoner's lives and ultimately what remains of their liberty once incarcerated. Thus, the concept of denial of liberty must be broadly interpreted to go beyond the idea of freedom of movement: since health services have a direct impact on prisoners' lives once they have been deprived of their liberty, such services must be included to the analysis in terms of human rights law.¹¹ This observation works for other activities, and also for other penalties (such as probation, for instance). The ultimate consequence would therefore be the removal of private for-profit interests from this sphere.

Conclusion

Human rights law, whether domestic or international, has reshaped the concept of the state's monopoly on punishment. The evolution that has been outlined above, from restrain to retain, emphasises that human rights law has created a state positive obligation. This positive obligation differs from procedural or substantive obligations. While substantive obligations require states to take basic measures to ensure effective enjoyment of rights (through criminalising specific behaviours), procedural obligations require the state to set in place mechanisms and procedures that ensure effective protection and/or remedies (for example, a

duty to conduct investigations). The evolution 'restrain to retain' created what I call a 'structural' obligation: The state has to organise its institutions so as to respect individuals' rights. Personal liberty and human dignity are at the root of this obligation, and are the essential elements of the theory of the state that I tend to develop in my PhD.

For more information about *What is Justice?* visit <http://www.howardleague.org/what-is-justice/>

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¹ The Universal Declaration of Human Rights (UDHR), Art. 11(2); International Covenant on Civil and Political Rights (ICCPR), Art. 15; American Convention on Human Rights (ACHR), Art. 9; European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Art. 7.

² ICCPR Art. 6; Protocol No. 13 to the ECHR, concerning the abolition of the death penalty in all circumstances; ACHR Art. 4.

³ See ICCPR Art 41 (inter-state complaints are possible, but there is an important pre-requisite: state parties must have made a declaration recognising the competence of the Committee); ECHR Art 33.

⁴ ECHR Art. 5 ; ICCPR Art. 9. It must be noted, in the case of Art. 9 ICCPR, that it refers to a 'judge or other officer authorised by law to exercise judicial power'. It could be argued that private entities could potentially be authorised by law to exercise judicial power. The Human Rights Committee did not give define this particular aspect. Art 5(3) of the European Convention also provides for the right to 'be brought promptly before a judge or other officer authorised by law' (emphasis added). However, the European Court's recent jurisprudence imposes a high standard of independence for these 'other officers'. See *Moulin v. France*, 23 February 2011 No 37104/06 at 57-59, where the Court considered that public prosecutors were not presenting the guarantees of independence required by the Court's jurisprudence under Art. 5,3.

⁵ Adopted 16 December 1966 by the General Assembly of the United Nations and entered into force 23 March 1976.

⁶ CCPR/C/79/Add. 55 : 'The Committee is concerned that the practice of the state party in contracting out to the private commercial sector core state activities which involve the use of force and the detention of persons weakens the protection of rights under the Covenant. The Committee stresses that the state party remains responsible in all circumstances for adherence to all articles of the Covenant'.

⁷ Concluding observations of the Human Rights Committee: New Zealand. 7 April 2010. CCPR/CO/5/NZL, 11 (emphasis added).

⁸ Minority opinion, Judge Levy considered that 'The state ha[d] not divested itself of its powers but merely exchanged them for supervisory powers'.

⁹ President Beinisch, 36.

¹⁰ President Beinisch, 38 (emphasis added).

¹¹ A recent report on prison privatisation provides for some examples of failures to provide elementary healthcare by private partners in prison (Mason, 2012).

A welfare state framework for the inclusion of penal systems

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This paper was judged as highly commended in the best PhD paper competition at the Howard League's *What is Justice?* conference in October 2013.

Introduction

The following article represents work which has developed out of my PhD research on political participation and the welfare state. In particular, my work looks at lack of participation and the Welfare State, which in my view provides an equally fascinating account of how citizens create and manufacture the constructs they live in, and in which they form, in the words of Kevin Olson of UC Irvine, a reflexive relationship with society. Having chosen to explore disenfranchisement of those who offend as a specific case of institutionalised, systematic demobilisation, I made several unexpected discoveries. While I did not set out to gain a substantive understanding of the institutional environments that supervised populations encounter, the development of this knowledge has greatly assisted my understanding of welfare systems and narratives regarding the accepted and acceptable borders of the 'welfare state'.

The first realisation relates to the study group's experiences of correctional institutions not being represented in much of the literature, at least not in an apparent manner. Many interviewees and survey respondents I spoke to and worked with discussed at length the types of non-punitive programmes and services they had engaged in during their supervision. The second realisation came during field visits to correctional institutions themselves, as well as supervised and non-supervised community supervision. Much of the literature on correctional systems emphasises the controlling nature of this part of the state, and often completely neglects the interests and functions of those personnel who work directly with supervised



populations. My experiences walking through many of the offices and prison yards of North Carolina reminded me more of gated communities than locations of oppression or Hollywood drama. The findings I present here began as reflections on these encounters and turned into in-depth research on how

to integrate supervised populations into an understanding of welfare systems, especially in light of the current trend to view correctional metrics (recidivism rates, imprisonment rates, crime, etc.) in terms of larger political and economic accounts.

I begin with a brief mention of key scholars who are investing in this strand of scholarship, which originates almost entirely from the disciplines of criminal and penal policy areas. It is, in a sense, an early attempt to engage in a dialogue between these disciplines and the area of welfare state research. I then present findings which to a large degree replicate previous studies in political economy and criminal justice using cross-national and sub-national data. I end this article with a brief introduction to a new framework for incorporating correctional systems into welfare state research agendas. This incorporation acts as a two way street, inviting scholars from the penal and criminological disciplines to become more active in welfare state research as well.

Crime and the welfare state

Making connections between criminal activity and economic and political

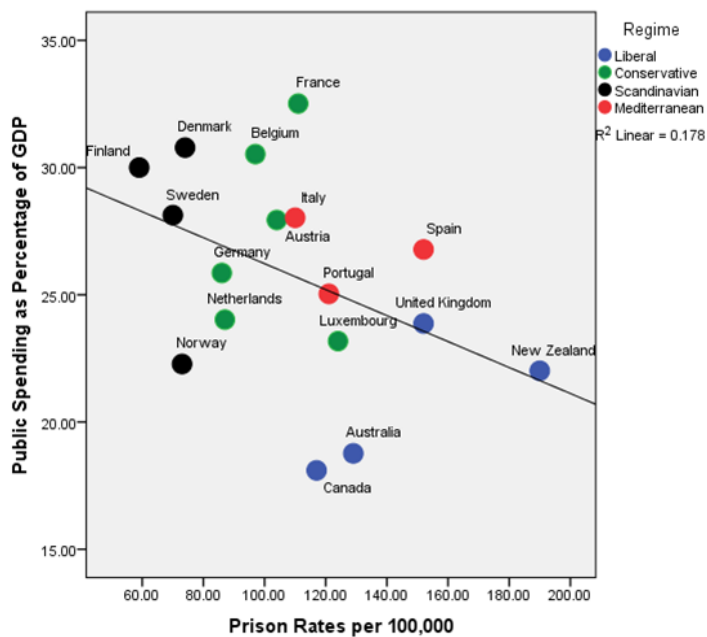


Figure 1: Public spending on welfare as percentage of GDP and imprisonment

frameworks is by no means new or surprising. From Rosa Luxemburg to the New Deal reformers, crime and economics have long been seen in tandem. However, the study has taken on a new momentum in its direct use of key findings from the field of welfare state research which, I believe, improve conceptions of what exactly the boundaries of the welfare state are. Should we continue to limit our views of the welfare state, or as put forward by Francis Fox-Piven at a recent gathering, should we not “continue the inquiry about what welfare does, how it’s related to labor markets and which programs are the welfare programs after all. . . is it also the penal system?” (Fox-Piven, 2012). I tend towards the latter argument, and I believe the evidence presented bears this out.

Much of the work on mass imprisonment and increasing punitiveness focuses on the United States, owing to the astounding growth in that country’s supervised population since the 1970s. This growth has much more to do with policy choice than crime rates. As such, its remedy most likely also lies in policy choices. The

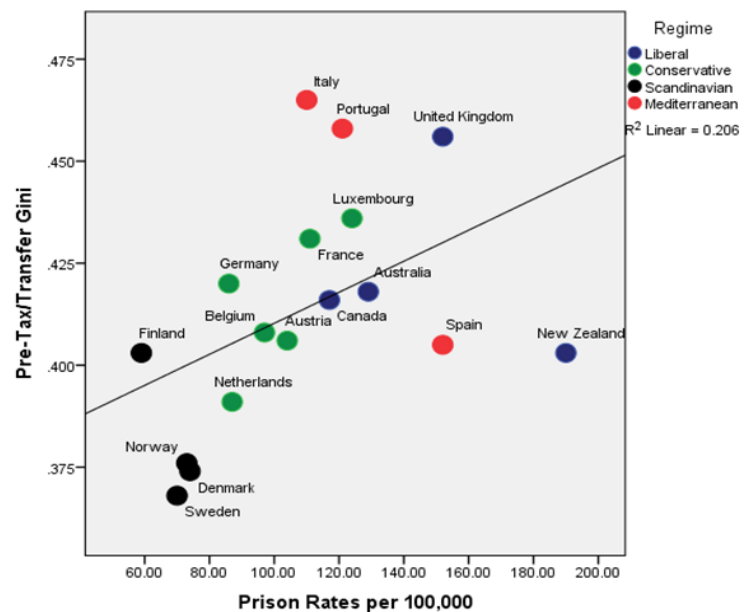


Figure 2: Pre-tax/transfer Gini coefficient and imprisonment rates

question has become: which types of policy work, and in what institutional setting? According to Rosenfeld and Messner (2013): ‘the most effective and realistic way of producing enduring crime reductions in the developed nations is to reduce the dependence of populations on the performance of the market economy’. Or as Lacey (2012) has eloquently promoted, we must construct an ‘institutional account of the defining features of political systems integrated within a broad comparative political economy of punishment’. Pratt has laid out a significant argument in respect to Scandinavian exceptionalism in both welfare and punishment strategies (Pratt 2007a; Pratt 2007b). Downes and Hansen (2006) show that prison rates, cross-nationally, are negatively correlated to spending on welfare as a share of GDP. Cavadino and Dignan (2006) exemplify attempts to incorporate correctional systems with welfare state institutions, helping to conceptualise measurement of correctional systems in the larger state apparatus. An important note is necessary for understanding the definition of ‘social corrections’ used herein. While it has sometime been used to describe strategies

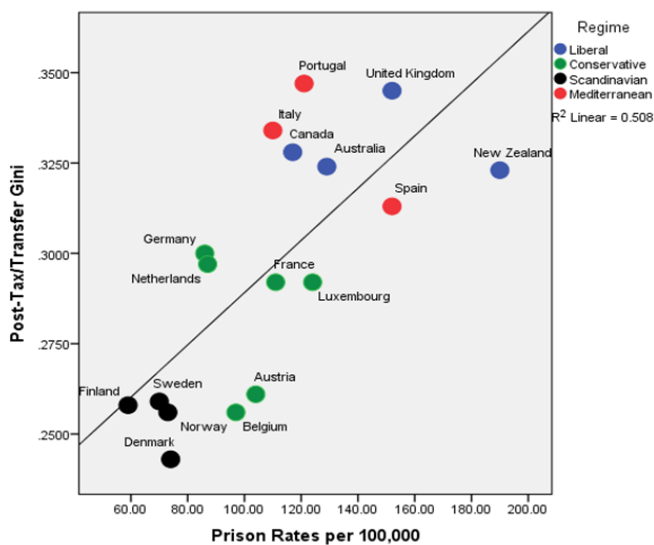


Figure 3: Post-tax/transfer Gini coefficient and imprisonment rates

to correct for individual deficiencies, here it is used solely to refer to corrections to institutional short-comings in which individuals are embedded. As such, 'social' corrections implies a strategy to correct for failures in institutional designs and not individual (client) level variables. The difference is important to distinguish.

This growing body of literature has increasingly focused on the importance of welfare states and punishment, incorporating the work of welfare state scholars in their own attempts to understand how the macro- political economic policy world interacts with their own interests. It is no surprise then that many scholars view the welfare state as an antithesis or accomplice of penal institutions, using varied descriptors: *The Prison State* (Downes and Hansen, 2006; Useem and Piehl, 2008), *Penal State* (Lacey, 2010, 2012; Wacquant, 2001, 2009; Owens and Smith, 2009; Simon, 2007a; McLennan, 2008; de Koster et al. 2008), *Carceral State* (Gottschalk, 2006, 2008; Gottschalk et al., 2006; Owens and Smith, 2009; Simon, 2007b; Mukamal, 2007; Uggen, 2007; V. M. Weaver and Lerman, 2010; V. Weaver, 2009; Dolovich, 2011; Heather Ann Thompson, 2011; H. A. Thompson, 2011;

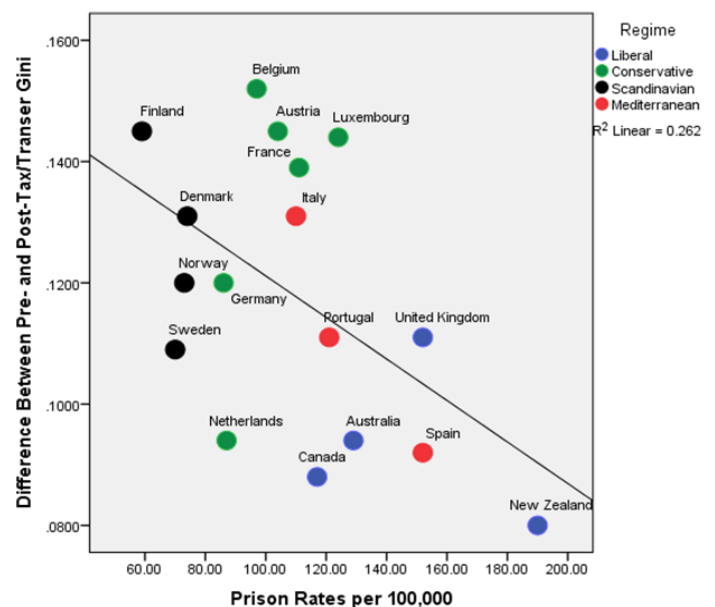


Figure 4: Difference in pre-and post- Gini coefficient and imprisonment rates

Murch, 2012; Beckett and Murakawa, 2012; Ross, 2010; Martin and Wilcox, 2012; Dillon, 2012; Fortner, 2012; Metcalf, 2011; Glassey-Tranguyen, 2011; Sim, 2009), *Carceral-Assistential State* (Wacquant, 2005), *Punitive (Un)Welfare State* (Rosenthal, 2004) and even an *Androgynous State* (Owens and Smith, 2009).

This interest has emerged because of the significant effect which markets, notably working through neoliberal policies, have had on the fundamental practices of institutions. Leading researchers in the area of criminal justice and penal policy are concerned with outcomes, crime reductions and re-integration. The welfare state for them is a tool, but still seemingly outside penal policy. The proliferation of terminologies describing the interplay between the state's presumed responsibility to protect its members from harm and its obligation to prevent those same citizens from doing harm thrives in academic debate. However, where it concerns an analysis of what welfare systems do – and more so what 'social corrections' do outside of the punishment of crime – these terminologies

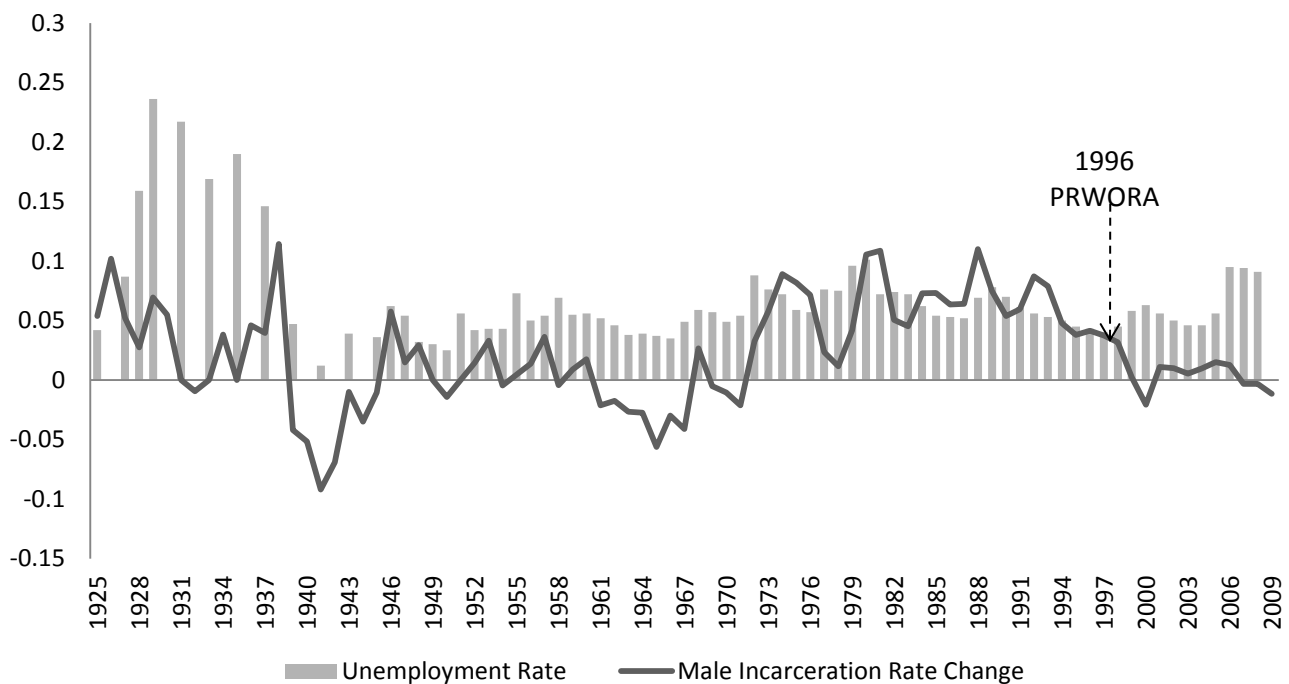


Figure 5: US Unemployment Rates and Imprisonment Rates 1925 – 2009

make incorporation unnecessarily complicated.

Lacey (2008) has illustrated, incorporating the *varieties of capitalism* approach (Hall and Soskice 2001), discernible differences between families of nations (i.e., liberal market economies, northern European coordinated market economies and Scandinavian coordinated market economies). Liberal market economies exhibit the most punitive forms of both welfare and criminal justice policies, which decrease as the typologies move along the spectrum. Furthermore, a joining up of political economic research fields and penal system studies can now be seen. Barker (2009), Tonry (2007), Lacey and Soskice (2013), and Gottshalk (forthcoming) have recently moved debate directly into the realm of political institutional settings. That said, and given the research that is proliferating outside of welfare state research, I investigated these findings using data from the Organisation for Economic Co-operation and Development (OECD) and the International Centre for Prison Studies (ICPS) for the years 2000 – 2009, 2012.

This is followed by an analysis using an original data set of the United States for individual states covering the period 1993 – 2008. This time series cross-sectional (TSCS) dataset enabled the investigation of the previous findings, but across sub-national entities.

Comparisons of prison rates, inequality and welfare policy

Cross-national data has been taken from the OECD Social Expenditure Database (SOCX), corresponding to the regime typologies outlined by Esping-Andersen (1990).² These typologies have proven robust over time. Four measures are plotted against the rate of imprisonment per 100,000 of the population obtained from the ICPS for the respective years. Prison rates are plotted against total public spending on welfare as a percentage of GDP (figure 1), pre-tax/transfer Gini coefficient (figure 2), and post-tax/transfer Gini coefficient (figure 3). Figure 4 plots the relationship between

² Findings for years 2000 – 2009 are available on request.

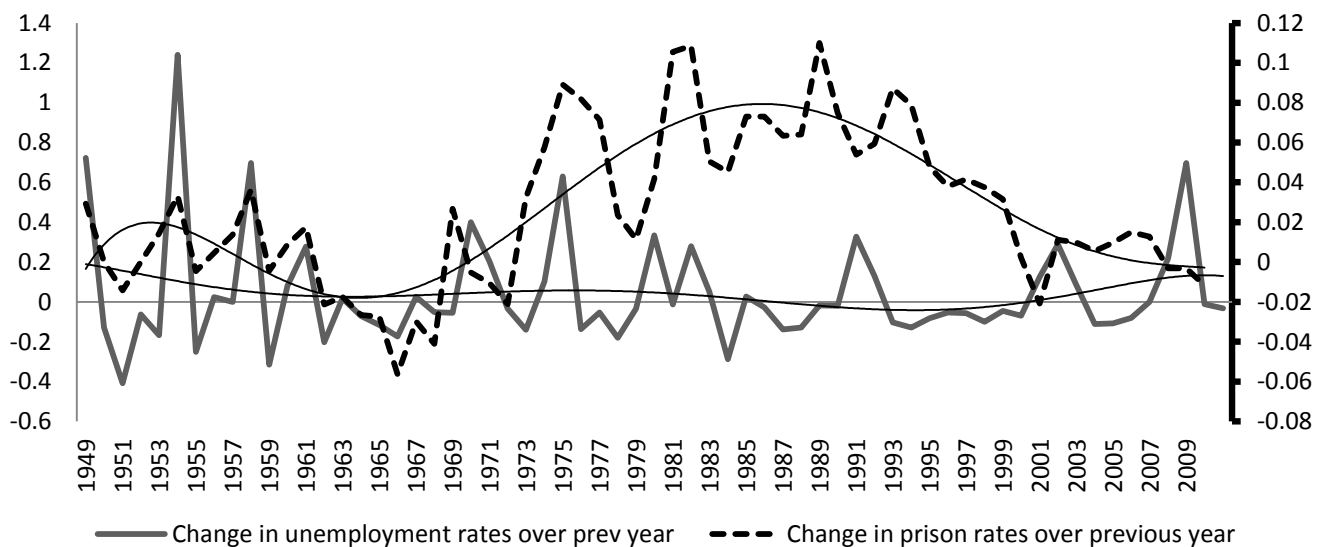


Figure 6: US Unemployment Rate Change and Imprisonment Change 1949 – 2010

the point reduction from pre- and post-Gini coefficient measurements.

Figure 1 indicates the amount states devote to welfare services correlated with their respective prison rates. Nations which spend more as a percentage of their GDP on public spending (i.e., welfare) exhibit lower incarceration rates per 100,000. Furthermore, nations which have lower degrees of market income inequality also exhibit lower degrees of imprisonment. However, this pre-governmental intervention (figure 2) is less striking than the result of post-tax/transfer income inequality (figure 3) and imprisonment rates. That is, there is less of a relationship, at least from the data presented here, between the market wage inequality (pre-tax and transfer income inequality) and imprisonment rates than the post-governmental intervention relationship and imprisonment rates. Clearly, incarceration is a function of criminal policy. However, the evidence here – which supports Hansen and Downes (2006), Cavadino and Dignan (2006), and Lacey (2010) – demonstrates that welfare systems matter.

The results pose interesting questions. They suggest that the amount by which a country reduces inequality (i.e., the total effect of the system's design), and not

just the amount it spends on public services, brings about stronger clustering among the regime typologies. Rather unexpectedly, the Mediterranean regime states cluster with their liberal counterparts. At first this clustering may seem inappropriate. However, once we take into account the functional aspects of correctional services, the phenomenon appears to be more rational. It might be assumed that the inability of these states to address inequalities of low-wage (foreign and domestic) workers by means of transfers is absorbed by their prison facilities. Due to eligibility policies, many migrant workers are unable to benefit from social welfare institutions. These findings are shared across the liberal regime typology and the (largely understudied) Mediterranean typology. The high levels of commodification which unprotected labour force participants experience, has clear public policy implications 'downstream'.

While it could be assumed that clustering is the result of similar justice systems in the liberal regimes, this does not fit so well with the systems of Spain, Italy and Portugal – countries which do not share the same common ancestry (so to speak) of the Anglo-Saxon-liberal states. It could be that the ability of the welfare state to

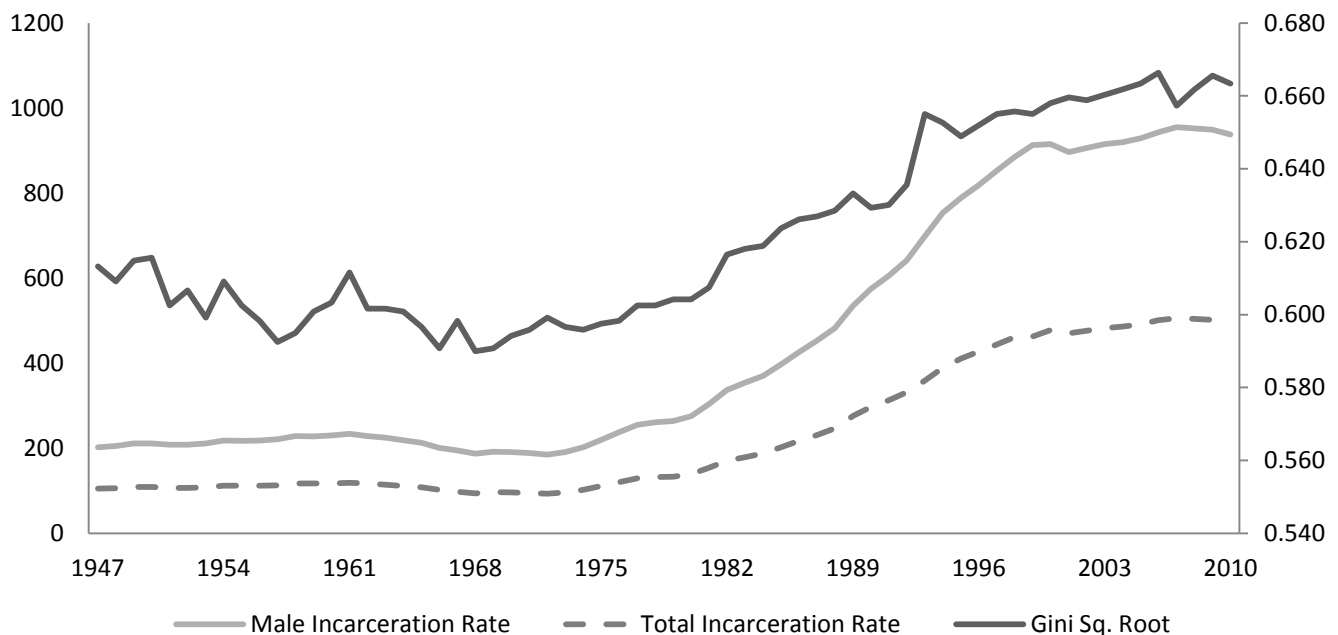


Figure 7: US Income Inequality and Imprisonment Rates 1947 – 2010

accommodate precarious life-courses in the low-wage sectors accounts for some of this variation, though the mechanisms and collateral influences are not readily given in the literature. In the case of Spain, for instance, the growth in Spanish prisoners has come largely from the influx of migrant background workers who, for lack of work and/or social rights, may be more prone to illegal activity. Indeed, the foreign born population, in Spain and across Europe, has historically seen much higher rates of incarceration than native populations (Wacquant, 1999).³

Also interesting to note is that the amount by which states reduce inequality does not generate the same relationship seen in post-tax/transfer Gini coefficient. This may indicate the type of message which is sent to beneficiaries of these systems, in the vein of the 'policy design matters' camp. In any case, the fact that the de-commodification characteristics first introduced by Esping-Andersen (1990) are so strikingly in line with another (seemingly

external) outcome (incarceration) proves an exciting avenue for research both in the fields of penal policy and welfare state research. Taken together, the amount of resources as a percentage of the country's GDP coincides with lower imprisonment; however, there are obviously deeper variables involved. Future research may focus on how political and economic negotiating configurations act in tandem to impact not only reductions in inequality, but systems of punishment. This would be in line with those who posit that the economic and political nature of governments are important to punitiveness both in social corrections and social welfare. For the purposes here, it corroborates the proposition that vulnerable populations are systematically rerouted into more capable, though arguably less desirable, welfare institutions.

The United States

To explore further the relationship of income inequality and imprisonment, an investigation was carried out as to whether these trends were also apparent for units which vary less in cultural and historic, not to mention political, backgrounds. In

³ Wacquant's advanced marginality thesis is a powerful account in understanding these trends.

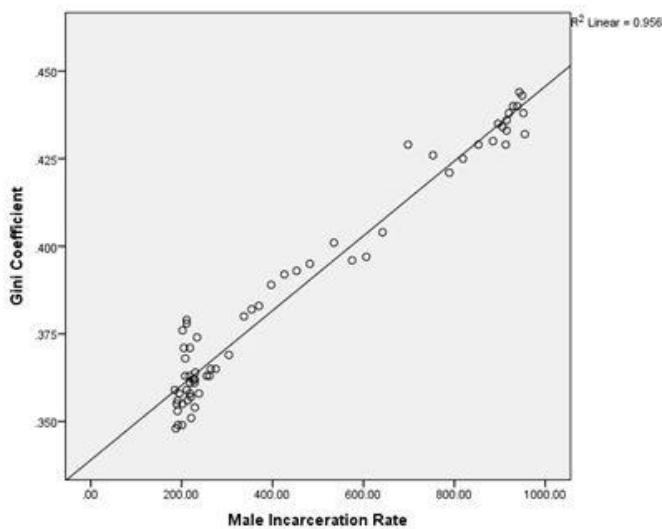


Figure 8: US Imprisonment Rates Regressed on Income Inequality 1947 – 2010

particular, attention was focused on the US. Preliminary analysis on the US as a whole showed that the experience of inequality and imprisonment remains strong over a relatively long time period (1947–2009).

Plotting the Gini coefficient against male and total incarceration rates (figure 7), a relatively stable relationship can be seen until the end of the 1970s, whereupon the rate for males begins to climb. It is clear that changes made to the nation's institutional structure following the rise of neoliberal and conservative policies have coincided with a dramatic increase in incarceration, particularly among males. In contrast with fluctuations in the data from unemployment in figures 5 and 6, the correlation between income inequality and incarceration rates is consistent across time. Additionally, adding unemployment rates to the time series data indicates that whereas income inequality is highly correlated to total, male and female incarceration rates ($r(62) = .976$, $p < .01$; $r(62) = .976$, $p < .01$; $r(62) = .968$, $p < .01$ – respectively), unemployment is not statistically significant. However, the unemployment rate does correlate strongly with changes in the rate of incarceration for men ($r(43) = .459$, $p < .01$) and women ($r(43) = .341$, $p < .05$).

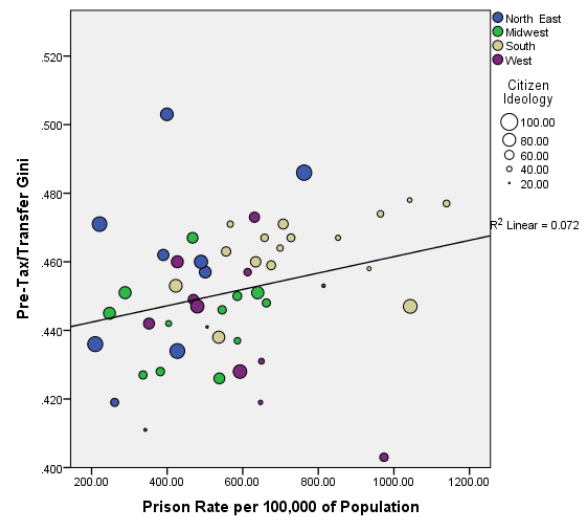


Figure 9: Pre-tax/transfer Gini coefficient and

Replicating the analysis on welfare expenditure with the analysis on the cross-national data, produced a weak, yet significant, trend in the bivariate relationship ($r(675) = -.217$, $p < .01$) seen in the cross-national findings. Additionally, looking at the generosity of states, as defined by the amount of the average benefit for a family of four to a full-time worker at the federal minimum wage, showed that more generous states also have, generally speaking, lower prison rates (figure 11). While the nature of the data used does not allow the assessment of the difference of pre- and post-transfer Gini coefficient to the amount of inequality reduced (given the different sources of these measurements), it is obvious from the graphical evidence here that the relationship existent at the cross-national level also appeared to apply to the individual US states. Thus, even at the sub-national level, the more states are able to reduce the income inequality of their citizens, the smaller their prison populations.

These findings are in line with the insights of Rosenfeld and Messner (2013), who have argued 'if criminal opportunities are proximate causes of crime, criminal motivations and the conditions that stimulate them are closer to ultimate cause.' Welfare states which (a) resolve income inequality

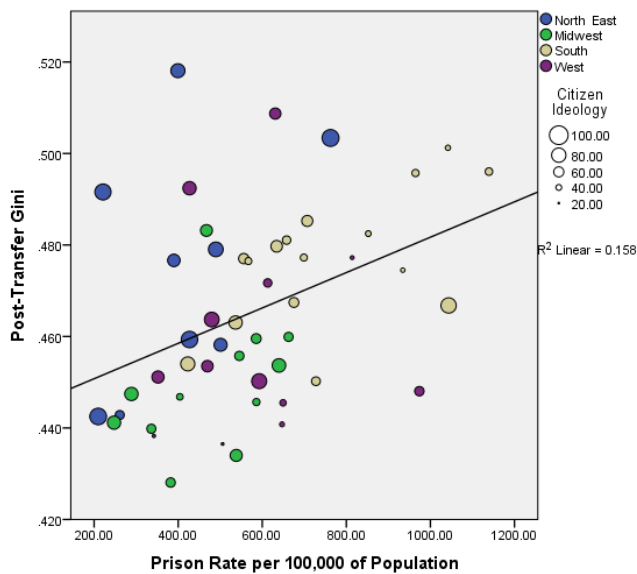


Figure 10: Post-transfer Gini coefficient and prison rates 2008

on (b) an increasingly egalitarian (or social capitalistic) basis; more successfully reduce the take-up in correctional populations (prisons) by preventing the criminogenic effects which market fundamentalism instigates. One could go further, as Steve Hall has commented, and argue that 'any abrupt move to neoliberal form of political economy will result in almost immediate increases in property crime, violence and homicide in the regions most badly hit by unemployment and the breakdown of the family, community, and collective civil and political organizations' (Docksai, 2010)

This is owed, on the one hand, to the observed relationship between criminality and economic conditions. Crime – property and violent – has increasingly become concentrated among the poor, while the rich have been able to employ more risk preventative measures (See Uggen, 2012; Levitt, 1999). Reduction in income disparities decreases property crimes in general (See for example Choe, 2008; Brush, 2007). On the other hand, more egalitarian and less discriminatory policies based not on norms of efficiency and targeted assistance, but stability and protection, promote trust and 'the discipline of delayed gratification' (Sennett, 2006: 31; Soss, 2002). By its very

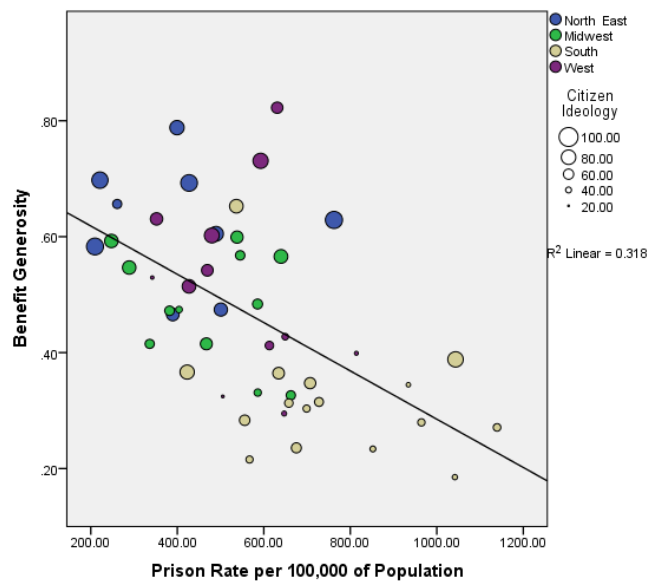


Figure 11: Benefit generosity and prison rates 2008

nature, a targeted welfare system must select citizens as worthy or unworthy, it must assign determination of eligibility. That is, the targeted welfare system coincides *de facto* with stratification. 'The very act of separating out the needy almost always stamps them as socially inferior, as 'others' with other types of social characteristics and needs, and results most often in stigmatization' (Rothstein, 1998: 158). Thus the targeted system produces a question which is fundamentally different to universal policy: one that focuses on fixing 'their' problems, rather than 'ours'. Or, taken to its extreme, how do we avoid 'their' problems becoming 'our' problems.

By reducing inequality, universalistic welfare systems increase social and political solidarity and participation, exactly the types of support network dynamics which reintegration efforts for those who offend seek to maximize. Correctional systems do not simply step in where welfare institutions end. On the contrary, most (if not all) correctional institutions operate in an integrated environment. That said, is it logical to continue to perceive correctional systems as operating alongside welfare systems, or

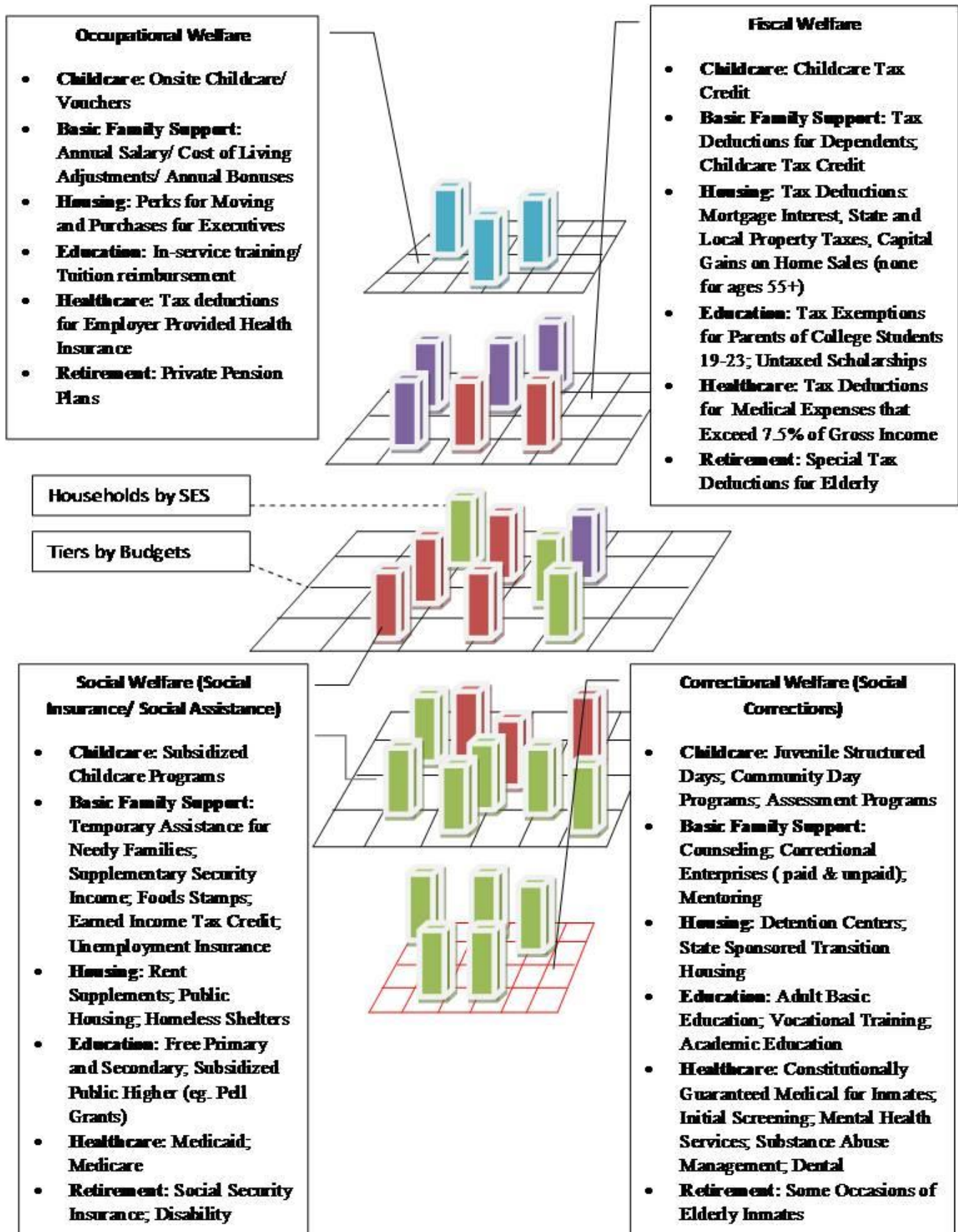


Figure 12: Framework

would conceptualising correctional systems as operating inside welfare system structures be more beneficial? Where should correctional institutions be in the larger picture?

It is clear that external welfare services and policy have a direct effect on penal institutions. The repercussions of slack social protection systems in the face of market economies that produce inequality is well documented. A large amount of scholarly work implies a connection between correctional systems and welfare systems, and recently a growing amount of work has questioned how to interpret this connection. I argue that the correctional system is an explicit internal component of welfare systems as opposed to parallel and/or substitutive institutions.

Functional view of correctional systems

Across countries and sub-national entities, the practice of harmonising services within prisons with those on the 'outside' is a central part of penal policy. Welfare functions, not punitive services, are the main budgetary concerns for penal systems: 'Medical care is one of the principal cost drivers in corrections budget. From 1998 to 2001, healthcare spending in state prisons grew 10 per cent annually.' (Warren, 2008). This is true across the board. Correctional services mediate deficiencies in many social programmes such as health and education. Chronic medical conditions are worse for those in prison compared to the general population. However, once they enter correctional supervision, conditions for prisoners are augmented. As Schnittker, Massoglia, and Uggen (2011) note, 'the mortality rate of African American men in prisons is actually *lower* than among African American men outside of prison'. In addition, the racial disparities in mortality disappear in prison. The fact that so many in prison arrive in poor health and are then elevated to a level not only on par with the non-incarcerated population (and this does not

begin to include the myriad of counselling and other services provided post-incarceration), but above the level of some non-offenders is a clear indicator of the functional merit of this area of the welfare state. I argue that social corrections – as a component of welfare systems – are corrective from an institutional standpoint, in that they ultimately correct shortcomings in the overall system.

While it is true that correctional environments have varying physical, mental and emotional health conditions, overall, the ability of correctional institutions across the US and other countries to find ways to deal with some of the most extreme outcomes of (politically created) deficiencies in the greater welfare system should be noted. As such, much is lost in attacks on correctional establishments as locations of social control and abusive power relations, though these issues are undeniably present. Rather, given the overwhelming evidence of the larger political economic restructuring of the American (and other) welfare systems, it is difficult not to see correctional services as unwitting victims of market fundamentalist restructuring. It is not over-reaching to extend this sympathy to the thousands of administrators and professionals who ensure that millions of people who offend, have a 'second chance' in society against near insurmountable odds. It is with this in mind that I propose a direct, unambiguous incorporation of correctional services into a welfare state framework. It is important to contextualise this placement not only for researchers of criminal policy, but also for scholars of the welfare state, in order that we do not limit our understanding of welfare to those locations where we feel most comfortable.

Conceptual Framework

A problem which must be overcome within the fields of welfare system and correctional system research is one of perception. There exists a fascination with viewing welfare

systems as magnanimous institutions which exist divorced from punitive systems. The idea that correctional facilities could equate to welfare facilities is often overlooked by welfare state researchers. On the other hand, the larger welfare state structure seems an area which experts in penal and criminal justice policy are not openly active in. Prisons, youth group homes, and detention centres provide beds, food, medical care, psychiatric treatment, recreational activities, and so forth. Generally these are provided to the beneficiary from the resources of the general population, tax revenue, representing redistribution between identifiable populations. By a strict welfare accounting philosophy, this means the field of social corrections is included in the welfare state structure. The following figure represents a conceptual understanding of welfare systems which incorporates correctional systems into the analysis. It represents an adaptation of the work of Titmuss (1965) and Abromovitz (2001).

Figure 12, includes four areas (tiers) of welfare involvement. In ascending order of the social economic group that the clientele of the welfare state belongs to, they are: (1) the social corrections tier (prisons and non-institutional settings), (2) social welfare ((2a) social assistance and (2b) social insurance), (3) fiscal welfare (predominantly tax credits and other policies aimed at market subsidisation), and (4) occupational welfare (those benefits defined by Titmuss as accruing to higher income households). This framework does not create new accounting items. It is meant to be mapped to existing national account data available from each country. As such, it represents an initial effort to begin mapping the entirety of the welfare functions of the state where social corrections makes up an internal component on par with other tiers.

Discussion

What I present here is that social corrections, far from existing as a separate

entity from the welfare state, are an essential component of it. The use of social corrections to manage the urban (sub)proletariat is neither unique historically, as seen in the growth in houses of corrections and poor houses beginning around the 17th century in Europe, nor spatially, as seen with varying uses of incarceration internationally. The correlation between welfare regime and 'prison state' is clear not because they are separate systems, but because researchers are measuring the same system with different indicators. Thus, as scholars look to unravel the impact of rising incarceration rates, they do so outside this framework of understanding the Leviathan. I find the separation of welfare state and prison state difficult to accept in light of the evidence to the contrary. Clearly, penal policies are moving in tandem with other welfare policies across time and space, and an investigation into the types of policy changes across all tiers, jointly, would greatly complement our understanding of welfare systems across regimes.

In terms of the surface data presented here: states acquire more social corrections clients as they enact stricter penalties for new and existing criminal violations. These policy changes develop in tandem with broader attitudes towards social, fiscal and occupational welfare and the deserving and undeserving poor. Welfare system generosity constricts, in the case of neoliberalism, and there is a system-wide effort to control costs while managing the precarious (sub)proletariat who have been displaced by larger macro-economic developments. In contrast to its social, fiscal, and occupational welfare counterparts, the social corrections tier is (a) able to reduce costs literally overnight, (b) reduce these costs even with an increasing beneficiary population and (c) do so without large scale political opposition. That prisoners often have no voice in public discourse, are perceived as unworthy of

political affection, receive the most highly discretionary and controlled social benefits and are highly sensitive to fluctuations in sub-national politics and budget shortfalls brings to mind Foucault's observation that the prison persists not because of its successes but because of its failures (Foucault, 1975). These cost reductions in the face of growing usage would be highly questionable in the other tiers and makes social corrections the last stop for the needy and the first stop for the state's accountant.

The social corrections tier as an area of inquiry, especially as relates to its interaction with the entire welfare state, offers many opportunities for study. Perhaps it is the case that mass imprisonment and increasingly punitive criminal policies, in parallel with increasing cuts to basic provision such as elementary education and healthcare, is the natural complement to the neoliberal welfare state regime which, as shown in the analysis above, the US has embarked on since the early 1970s. There can be no meaningful change for the social corrections tier without simultaneous modifications in the adjoining tiers. If the social corrections tier is conceptualised as an integral component of the welfare state, as argued here, then investigations into the dynamics between this tier and others enables pragmatic study for the state as a whole.

For more information about *What is Justice?* visit <http://www.howardleague.org/what-is-justice/>

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Exploring differential justice: Youth penal expansion and reduction in England and Wales

Theoretical, conceptual and empirical considerations

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This article explores contemporary juvenile justice penalty in England and Wales. Based on current PhD research, the article will present some of the literature explaining trends in youth justice penalty before outlining empirical and methodological considerations for researching such phenomena.

Introduction: A 'new punitiveness'?

Until relatively recently prison as a crime control strategy was used parsimoniously across Western states, prompting many criminologists to contend that it was a 'stagnant' institution in perpetual decline (Wacquant, 2009a: 6). However, as many readers of this bulletin will be well aware, since the 1970s we have witnessed exponential growth in prison rates across the majority of the Western world (see Walmsley's 2011 world prison population list). While there are practical difficulties in estimating prison populations, it is estimated that there are more than 10.1 million people currently incarcerated globally (Ibid., 2011). Similarly, youth imprisonment figures suggest that approximately one million children aged 14 to 18 years are incarcerated around the world at any one time (Pinheiro, 2006 cited in Goldson and Kilkelly, 2013). Over the last four decades an unprecedented expansion of penal control has occurred across the Western world (see Figure 1) (Lappi-Seppälä, 2012), which has led many to contend that there is a 'new punitiveness' (Pratt et al., 2005) evident in crime control strategies.

Criminological historical analyses suggest that a number of social forces since the 1970s have led to a convergence towards the use of the prison and more draconian and punitive measures. Loic

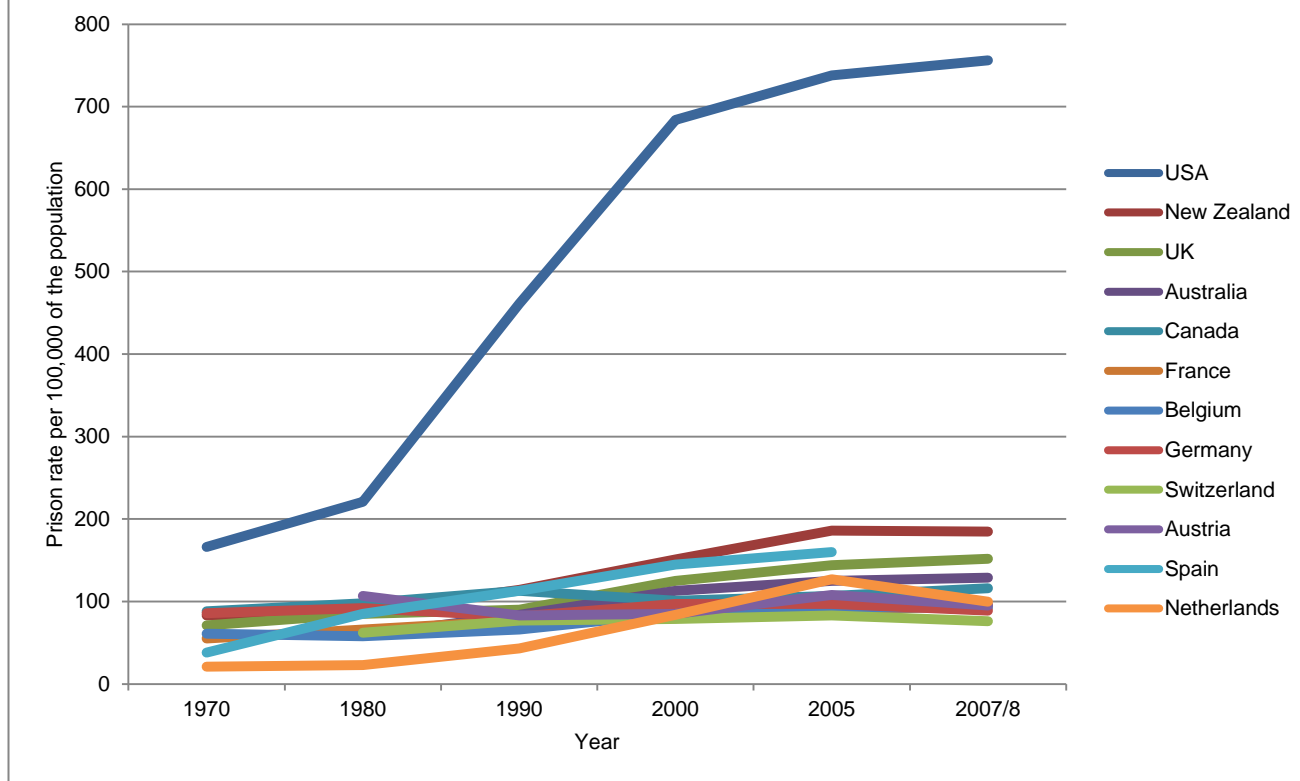


Wacquant (2009a; 2009b) suggests that the rise of neoliberal economic policies, including deregulation of the market and a retraction of the welfare state, set against a backdrop of high unemployment in the US and Europe, led to the

growth of the 'penal state' to control those (mostly young people and black and minority ethnic communities) who failed to thrive in the free-market economy. Wacquant (2009a) contends that neoliberal penalty has been diffused from America across to Europe, resulting in increased surveillance and zero tolerance strategies towards the poor and marginalised groups which may include young people.

Similarly, In *The Culture of Control* (2001: 3), David Garland argues that since the 1970s British and American crime control strategies have performed a dramatic and 'startling' about-turn from the trajectory of previous years and created a 'culture of control'. As a reaction to rising crime rates from the 1960s onwards, Garland argued that faith in penal welfarism and the rehabilitative ideal rapidly declined. Consequently, a dire culture of control, preventative partnerships and punitive segregation emerged due to successive governments believing they needed to tackle the perceived crime problem with a new approach. Thus new crime control strategies have been implemented, including increased use of prison and draconian sentences; increased deprivation in prison conditions; retribution in children's courts; 'three strikes laws'; zero tolerance;

Figure 1: Prisoner rates in selected countries 1970-2007 (per 100,000 pop.)



mandatory prison terms; strict sentencing guidelines; 'supermax' prisons; increased humiliation of prisoners by way of naming and shaming; and a strengthening of surveillance and control measures of people who offend in the community. Such changes were said to have been aided by increased societal fear of crime, the politicisation of justice policy, more intense media coverage of crime and the rise in the importance of and concern for victims (Garland, 2001).

These trends are also clearly seen in youth justice policy. There has been a global convergence of policies in youth justice towards a punitive neoliberal penalty based on a number of interconnected themes, including attenuation of welfare; the ascendancy of the justice model; responsabilization; zero tolerance; adultification; and penal expansion (Muncie, 2004).

In England and Wales between 1992 and 2002 children being sentenced to penal

custody rose by 85 percent, and huge numbers of children were drawn into the youth justice system (Nacro, 2009). Despite the youth custody population decreasing by about one third and a reduction in first time entrants into the system since 2008 (Allen, 2011; Ministry of Justice, 2013), the number of children subject to incarceration and punitive penal measures remains stubbornly high. The increased control, supervision, surveillance and incarceration of children in conflict with the law has led to what has been termed the 'institutionalised intolerance' (Muncie, 1999) of young people in England and Wales.

Differentiated penalty: resisting the 'new punitiveness'

The work of Wacquant and Garland has been extremely influential in criminological literature and persuasively illustrates the power of social forces to shape penal policy. However, it is said that such theses offer 'criminologies of catastrophe' (O'Malley, 2000) or 'totalising narratives' (Goldson and

Table 1: Prison rate per 100,000 juveniles aged 17 or below for selected countries (years 2003-2010) ordered from highest to lowest

State	2003	2004	2005	2006	2007	2008	2009	2010	% change from initial to most recent count
Canada	34.3	31.9	28.8	28.7	28.8	27.2	-	-	-26.0%
Netherlands	-	-	66.2	66.9	67.4	50.1	35.0	19.6	-237.9%
Spain	21.0	20.3	-	-	-	-	-	18.1	-15.9%
Portugal	23.8	26.2	26.6	25.5	-	-	17.0	16.5	-44.1%
Australia	-	-	-	-	-	12.8	19.5	16.3	+21.9%
England and Wales *	16.1	18.9	19.1	20.0	19.8	20.4	16.9	13.2	-22.0%
United States of America		13.0	12.2	11.4	12.7	14.0	13.3	13.1	+0.5%
Austria	-	-	11.2	13.8	8.9	10.8	12.0	-	+6.0%
Italy	7.6	8.4	8.9	7.8	9.9	11.3	-	-	+32.7%
New Zealand	-	-	9.9	10.6	8.9	8.7	7.5	8.5	-16.3%
Finland	9.1	8.7	8.3	8.8	7.1	8.5	9.3	6.7	-35.4%
Germany	5.4	5.1	-	-	-	-	-	-	-6.3%
France	-	-	-	-	5.3	4.9	4.9		-8.8%
Ireland	4.2	5.8	-	-	5.3	4.3	5.0	4.4	+3.5%
Switzerland	-	-	4.9	3.6	-	-	-	2.7	-81.8%
Iceland	-	0.0	2.5	1.3	1.3	2.5	2.5	-	+100.0%
Denmark	0.7	0.6	1.7	1.5	2.1	0.7	1.6	-	+59.0%
Sweden	0.1	0.1	0.7	0.7	0.6	0.8	0.3	0.8	+86.7%
Norway *	1.0	0.9	1.0	0.6	0.6	0.5	0.7	-	-42.2%
Japan	0.2	0.3	0.3	0.2	0.1	0.2	0.2	0.1	-187.4%

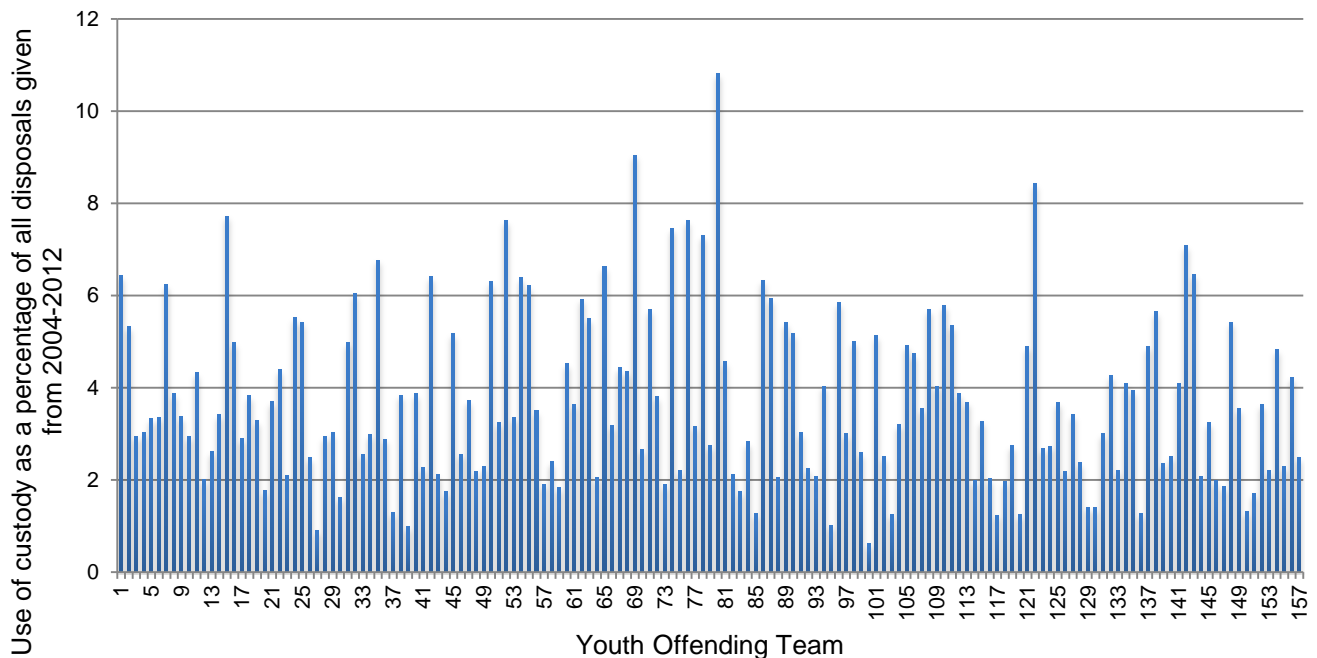
* Changes in definitions and/or counting rules are reported by the Member State to indicate a break in the time series.

Source: Derived from the United Nation's Office on Drugs and Crime (2013).

Muncie, 2012) in which dystopian visions are promulgated through grand macro theorization neglecting the local and micro nature of penalty (Loader and Sparks,

2004; Hutchinson, 2006). Others posit that the catastrophic nature of a globalised neoliberal penalty has been overplayed (Downes, 2012). Research looking at

Figure 2: Graph showing the variance in the use of custody as a percentage of all disposals given across 157 Youth Offending Teams in England and Wales from 2004-2012

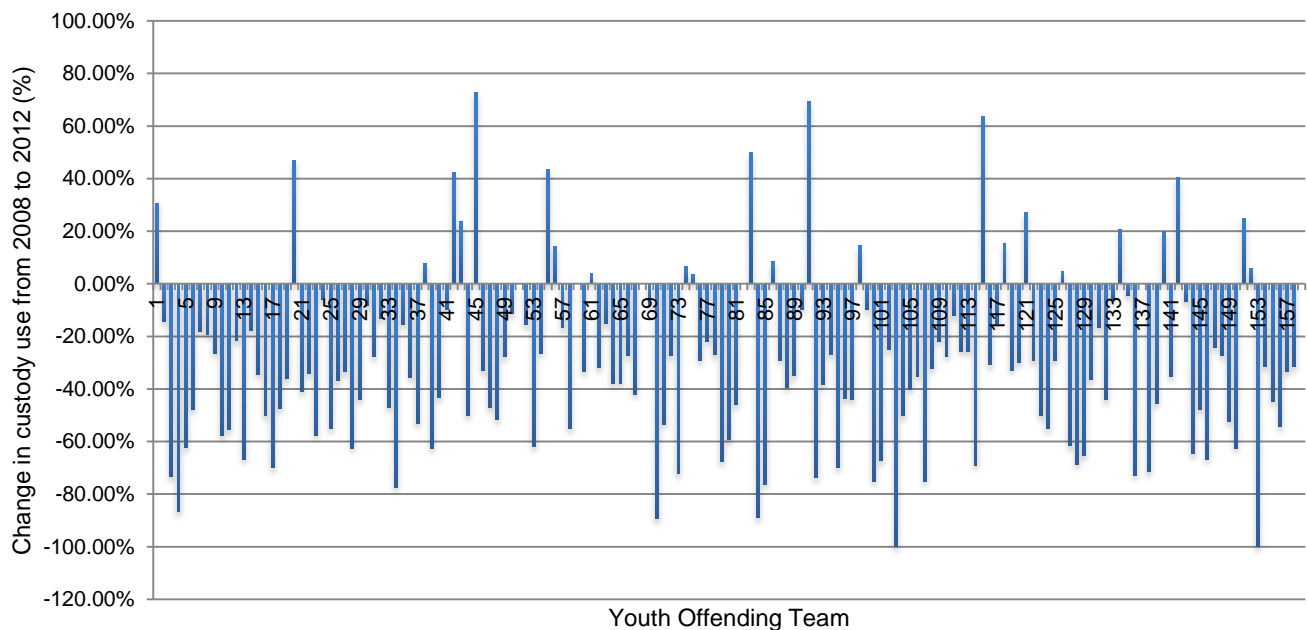


penalty across time and space indicates that while greater use of imprisonment is apparent it is not evenly distributed. Rather, looking at penalty at the international, national and regional level reveals that juvenile justice penalty is differentially implemented (Goldson and Hughes, 2010).

For example, at the international level (see Table 1) youth prison rate statistics indicate significant variation in the use of penal custody to control crime across the West. The Anglophone states along with the Netherlands, Spain and Portugal show considerably higher rates of prison use than the Nordic nations and Japan, which appear to use penal custody sparingly in comparison. While being mindful of the unreliable and patchy nature of international data sets such as these (see Muncie, 2008; 2009), analysis of trends indicates that there has not been a wholesale homogenisation of punishment across the West towards a neoliberal penalty. Rather, penalty appears to be heterogeneous (Cavadino and Dignan, 2006).

There is a raft of research exploring differences in penal approaches across the West. Significantly, the literature suggests that differences and variation in types of political economy affect levels of punitivity and prison rates. For instance, political economies such as Cavadino and Dignan's (2006) typologies of *oriental corporatist* (Japan) and *social democratic corporatist* (Sweden, Finland) produce lower prison rates, compared to *neoliberal* types (England and Wales and USA) and to a lesser extent *conservative corporative* types (Germany, France, Italy, Netherlands) which produce higher rates of penal custody (see also Winterdyk, 2002; Lappi-Seppälä, 2012). Likewise, types of political structures also affect levels of punitivity; systems based on proportional representation have lower prison rates than first past the post two party political systems (Lacey, 2012). Furthermore, expenditure on welfare provision is negatively correlated with prison rates (Beckett and Western, 2001; Downes and Hansen, 2006), high levels of inequality are correlated with higher prison rates

Figure 3: Graph showing the changes in custody use for young people (10-17yrs) from 2008 to 2012 in percent for 157 Youth Offending Teams in England and Wales



(Wilkinson and Pickett, 2009; Lappi-Seppälä, 2012) and low ages of criminal responsibility are correlated with higher levels of incarceration (Downes, 2012).

Using the national as a unit of analysis to explore a state's penal approach is inadequate however (Muncie, 2005). Just as analysis between states illustrates considerable variation, so too does analysis within states. Comparative analysis at a subnational or local level within states reveals that youth justice is significantly localized through national, regional and local enclaves of difference (Goldson and Hughes, 2010). Analysis of Ministry of Justice statistics, undertaken as part of this PhD research, indicates considerable variation in the use of penal custody for young people across the 157 Youth Offending Team areas in England and Wales. Between 2004 and 2012, as a proportion of all disposals passed, custodial sentences varied between 0.62 per cent and 10.82 per cent (see Figure 2). Further analysis indicates that, while the juvenile penal population has declined by approximately one third since 2008 on a macro level, on a micro level not all Youth

Offending Team areas have achieved such success in making reductions in the use of penal custody for young people (see Figure 3). After taking into consideration demographics and other significant variables, Goldson and Hughes (2010) suggest that similar Youth Offending Teams matched on socio-economic factors produce quite different sentencing outcomes, indicating that youth justice penalty is spatially differentiated. It is therefore possible to identify striking patterns of justice by geography across England and Wales.

Gibbs and Hickson (2009) have also found significant variation in the use of custody across Youth Offending Teams in England and Wales for young people. Similarly, the Howard League's (2013) analysis of adult sentencing patterns also shows remarkable inconsistencies across criminal justice areas in England and Wales resulting in a 'postcode lottery' for offenders.

So while England and Wales purportedly has a national youth justice system with universal laws, national standards and policies, we can observe that youth justice penalty is spatially determined

with local systems and cultures being key. The prominence of professional values, morals and discretion coupled with practitioner cultures is of particular importance to explaining differential justice (Lipsky, 2010; Goddard and Myers, 2011; Myers and Goddard, 2012; Goldson, 2013). The implementation of national and indeed international policy is dependent on regional and local actors. Practitioner resistance, subversion, bargaining and the exercise of professional discretion alert us to the fact that national policies are subject to alteration, contestation and reconfiguration by actors on the ground (Fergusson, 2007; Goldson and Hughes, 2010). Policy may be followed to the letter or diluted substantially by autonomous practice. With this in mind we can hypothesize that autonomous practice can either promote penal expansion or encourage penal reduction. However, large-scale comparative research in this area is sparse.

It is these inconsistencies and the drivers of justice by geography that my PhD research seeks to unpick.

Research study aims

The project aims to critically examine youth penalty across and within separate Youth Offending Team areas in England and Wales. More specifically it aims:

- To develop theoretical understandings of differential justice by focusing upon localised patterns of penal expansion and/ or penal reduction in the youth justice field;
- To examine the cultural settings, political contexts, policies and practices, both at the macro and micro level, that give rise to high/ low usages of penal custody;
- To advance knowledge and understanding of the key features of contemporary juvenile justice penalty in England and Wales;
- To identify policy and practice approaches that might develop and maintain a decrease in the use of

custody at a local level, even when a punitive climate might prevail at a national and or international level.

Empirical considerations

Significant attention within criminological thought, regarding penalty, falls within two traditions of analysis, the nomothetic and the idiographic (Edwards and Hughes, 2005). The nomothetic tradition seeks to establish connections, universality and generalisable themes between states. The global punitive turn thesis is such an example. However, as Mathews (2005) notes nomothetic theses are usually unidirectional and crucially neglect the local nature of crime control strategies. The idiographic seeks to find uniqueness and differences between jurisdictions (Edwards and Hughes, 2005: 347–48). This approach is context specific, anthropological in nature and attempts to distil the localisation of social relations. Young (2003) cited in Edwards and Hughes (2005:349) warns against a 'hermetic localism' in which criminologists striving to discover native qualities of crime control fail to acknowledge how local systems are affected by external influences. Both traditions, if applied in isolation, fail as an analytical framework for the understanding of juvenile justice penalty. Therefore in the sociology of punishment one must combine a nomothetic and idiographic approach focusing on the interplay and 'inter-dependence' between international, national and subnational policy and practice to understand penal expansion and reduction (Edwards and Hughes, 2005, 2009, 2012; Muncie, 2005; Goldson and Hughes, 2010).

In a recent article by David Garland (2013) in which he re-evaluates his own culture of control and other social forces theses, he suggests criminological approaches now need to switch their focus on to the state rather than grand social forces. The state being 'institutional processes' including new legislation,

policies, legal and policy decision makers, sentencing judges and probation services pursuant of policy guidelines.

With Garland's (2013) methodological call to arms ringing in my ears and the importance of both combining and balancing the power of the nomothetic and ideographic traditions of enquiry in mind, I have taken the following approach to empirically investigating the phenomena of differential justice.

Methods

A number of fieldwork sites across England and Wales have been selected to explore practice at a local level. Fieldwork sites have also been matched on demographic characteristics.

60 semi-structured interviews (10 per research site) will be conducted with key decision makers/ actors and managers within the youth justice system including judges, magistrates, police officers, Youth Offending Team practitioners, Crown Prosecution Service officials, and staff from non-governmental organisations. A further 15 interviews at a national/ international level with senior academic specialists, policy makers and youth justice professionals/ practitioners will be conducted. These interviews will explore decision making in relation to use of custody, sentencing and conceptions of penalty.

A grounded theory approach will be adopted for the analysis of results.

Concluding comments

It is hoped that concentrating on state processes and the cultural conditions which drive either penal expansion or penal reduction will help build on our theoretical understanding of differential justice and contemporary juvenile justice penalty. Perhaps more importantly, it is hoped that this study will contribute to the development of 'best practice', by flagging up and identifying innovative practice at a local level for the purposes of helping to reduce the

excessive numbers of children and young people being imprisoned at a national level.

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Punishment and Charity: The penal voluntary sector in England and Wales

Philippa Tomczak is a PhD candidate at the University of Manchester, and was the 2013 recipient of the Howard League's bursary to attend the British Society of Criminology Conference.

Introduction

In recent years, both policy developments and academic commentators have referred to the increasing role that penal voluntary organisations (PVOs) are likely to play in the delivery of criminal justice services. This is a result of market reforms, including service delivery contracts and payment by results mechanisms. Particularly relevant policy documents are the criminal justice specific *Transforming Rehabilitation: A Strategy for Reform* (MoJ, 2013) and *Breaking the Cycle* Green Paper (MoJ, 2010). A more detailed discussion of recent policy reforms and academic commentary is largely beyond the scope of this piece but can be found in Tomczak, forthcoming.

Voluntary organisations are formally constituted organisations outside the public sector, whose main distinguishing feature is that they do not make profits for shareholders (Maguire, 2012: 493; Corcoran, 2009: 32). Various terminologies are used to refer to organisations in this area, which include: third sector organisations; not for profit organisations; non-governmental organisations; charitable organisations; civil society organisations; the voluntary and community sector; and community based organisations (Maguire, 2012: 493; see also Tomczak, 2013; Goddard and Myers, 2011; Armstrong, 2002). Penal voluntary organisations are those charitable and self-defined voluntary agencies that specifically work with prisoners and offenders in prison- and community-based programmes (Corcoran, 2011: 33). Examples include organisations that are solely focused on offenders and/or their families (e.g. FPWP Hibiscus, Nacro, the Howard League for Penal Reform) and organisations for whom those who offend and/or their families are one of their multiple



client groups. Examples the Fawcett Society, which campaigns for women's equality, and RAPt, which provides drug and alcohol services.

Recent academic commentary has stimulated discussion

about the penal voluntary sector (PVS) and has made an important contribution to the body of knowledge in this area (examples include: Maguire, 2012; Morgan, 2012; Corcoran, 2011; Mills et al., 2011; Neilson, 2009 and, referring to similar developments in the USA: Goddard, 2012; Armstrong, 2002). However, the impact of market policy reforms has been over-represented in academic commentary and this has skewed analysis of the PVS (Tomczak, forthcoming). Scholars have discussed the PVS in terms of its links to the 'wider agenda of 'post-welfare' state modernization' (Corcoran, 2011: 34) and the 'marketisation of criminal justice' (Maguire, 2012: 484; Morgan 2012). Although timely and important, these arguments are problematic because the centrality of marketisation in this literature results in a partial analysis that tends towards economic determinism and neglects the agency and heterogeneity of the PVS.

Academia and the PVS

Surprisingly little is known about the sector. Scholarly understandings remain 'lacking' (Mills et al., 2011: 195) due to the relative dearth of research in this area (Corcoran, 2011: 33; Armstrong, 2002: 345). As such, the PVS remains 'a descriptive rather than theoretically rigorous concept or empirically defined entity' (Corcoran, 2011: 33). I suggest that this situation is both peculiar

and problematic. It is odd that there has not been more commentary regarding the work of PVOs, because the impact and value of the PVS upon criminal justice is considered to be significant, perhaps to such an extent that: 'there can hardly be a prison in the country that could continue to work as it does if there was a large scale collapse of voluntary, community and social enterprise services for people in custody' (Martin, 2013: no pagination). Similarly, Neuberger notes 'the amazing contribution and dedication that volunteers bring to the criminal justice system' (2009: 2).

As I have argued elsewhere, there are two key debates in this field of inquiry (Tomczak, 2013). The increasing privatisation of penal regimes and the concurrent participation of certain PVOs in the market for penal services undeniably raises important questions, which scholars have now begun to analyse. There remain unanswered questions over whether the growing market in penal services is changing the nature of charitable work (see Corcoran, 2011; Neilson, 2009). However, the other key debate concerns the impact of charitable work in punishment. The academic literature indicates that 'benevolent' charitable work may act to legitimise coercive carceral regimes, extend control and (re)produce existing power disparities (Cohen, 1985; Foucault, 1977). Yet, other scholars have indicated that the PVS can provide some value and contribution that may impact positively upon prisoners and probationers (Maguire, 2012: 484; Mills et al, 2012: 392; Neuberger, 2009: 2). This latter body of scholarship underpins recent articles which raise concerns about the impacts of marketisation on PVOs. As such, our lack of a clear understanding of exactly what the PVS does and the value (or detriment) it can bring to prisoners and probationers is problematic. According to Mills et al. (2011: 205), 'discussion of how voluntary sector organisations themselves will be affected by recent policy

developments remains sparse and underdeveloped'. This is true, but there is a concurrent (perhaps preceding) need to understand the impact that the PVS and PVOs make. Discussions about how policy changes will affect the PVS and PVOs will otherwise be constructed on shaky foundations.

In this article, I provide a case study of the Storybook Dads PVO, explaining exactly what the organisation does and the value it can bring to the prisoners it works with. The case study draws on data which is freely available in the public domain. This case study is intended neither to provide any theories about the impacts of the PVS, nor to negate the potential detrimental effects of charitable work in punishment. Rather, it is a specific exploration of one PVO's work, and its impact upon one prisoner.

Case Study

Storybook Dads works to address the damage that imprisonment does to the ties between parent and child. They point out that 'half of all prisoners lose contact with their families completely' (Storybook Dads, 2010: 5). Their work provides a solution to this problem, by providing a programme through which imprisoned parents record stories and messages for their children (Ibid.: 4). These recordings are then edited and presented to the children as a gift (Ibid.: 4).

Through this work, Storybook Dads enables imprisoned parents 'throughout the UK to maintain meaningful contact with their children' (Ibid.: 4) and provides prisoners with 'the opportunity to reduce the damage done to their child as a result of the forced separation' imposed by imprisonment (Ibid.: 4). This programme is considered valuable because it can reduce the 'stress and trauma experienced by the children of imprisoned parents', and can enable imprisoned parents to help develop their children's literacy skills (Ibid.: 4). The prisoners who participate can also gain

valuable literacy, parenting and computer skills through producing and editing the recordings (Ibid.: 4).

The work of Storybook Dads is argued to 'greatly increase outcomes' for parent and child (Ibid.: 4). Outcomes are improved through enhancing the literacy skills of both parent and child, and reducing the children's feelings of 'abandonment, shame and isolation, which can in turn lead to anti-social behaviour and delinquency' (Ibid.: 4,6). The PVO also point out that improved family ties are 'inextricably linked with reduced re-offending' when prisoners are released (Ibid.: 44). Prisoners who maintain contact with their families are noted to be "up to 6 times less likely to re-offend" (Ibid.: 5, emphasis in original). Overall, Storybook Dads deem their work to provide 'social and financial benefits to society (which) are immeasurable' (Ibid.: 4).

This idea was not an initiative from the MoJ, Prison Service or an individual prison and is run neither through a commissioning programme nor on a payment by results basis. The idea for the project was initially developed by the woman who later became CEO of Storybook Dads, when she was volunteering in HMP Channings Wood (Ibid.: 11). She then successfully operationalised the organisation in HMP Dartmoor in 2002 (Ibid.: 11). The PVO's work is funded by 'grant giving trusts' (Ibid.: 12, see also 18) rather than directly by the prisons. Host prisons are therefore required to enable the operation of this service in their prisons, but not to directly fund the work.

Billy's story forms part of the Storybook Dads 2010 Annual Report. It indicates that this prisoner greatly valued the supportive relationships he was able to build with the PVO staff while in prison. Billy explained that he had experienced some shifts in his identity (Burnett and Maruna, 2006) as a result of working with Storybook Dads, which have the potential to impact positively upon his behaviour after release:

Billy: The support that the team gives us is priceless. [...] It gives you a sense of responsibility and normality which helps in the planning for a life outside of prison. A life that doesn't involve ending up back inside. [...] If you ask me who I am, I no longer reply 'A criminal. One of life's screw-ups'. [...] I'll tell you now who I am; I am a father, an artist, an editor and producer, a teacher and a friend. [...] That's what I have found out about myself these last years with the help of the team at Storybook Dads. It's fair to say these last few years have changed my life because I've realised that people do care.

(Ibid.: 7, emphasis in original).

Conclusions

There are several important lines of inquiry which relate to the PVS. Furthermore, this sector includes a highly diverse and complex set of organisations. It is therefore difficult to create theory about the PVS and draw conclusions about the impacts of PVO work in punishment. However, working towards a thorough conceptualisation of the PVS is an important task, particularly in light of the extent to which voluntary organisations may be involved in and influence punishment (Martin, 2013; Neuberger, 2009).

Charitable work is certainly not a panacea or all-inclusive solution to complex social issues (Corcoran, 2012: 22) and it remains questionable whether the prison can ever be an appropriate site for social work. Nevertheless, there is some evidence that charitable work may in some cases be valuable to those with a history of offending, for example through its capacity to support education and resettlement. These qualities are often implied in the PVS literature but rarely made explicit or given substantive consideration.

Having considered this, the most pressing task for academics is to attempt to give some voice to those who are most affected by both penal regimes and the work

of charitable organisations: the prisoners and probationers themselves (Tomczak, 2013). These voices are often absent from debates on this topic, but they are the only means of properly determining the value (or otherwise) of charitable work in penal settings. There is hardly any independent information or research about whether detainees engage with charitable programmes voluntarily, whether they consider such programmes to be beneficial and what their experience of being in contact with these organisations is (Bosworth, 2005). Although research that focuses directly on the experiences of detainees is not a value-free exercise in itself, this is where the energy of academics ought to be focused (Tomczak, 2013), in order to rigorously conceptualise the role of charitable work in the penal sector.

Philippa Tomczak is in the final stages of her PhD in Criminology at the University of Manchester. Her research is situated within the sociology of punishment. Particular research interests are imprisonment; the penal voluntary sector; penal reform and activism; and actor-network theory. She tweets @PhilippaTomczak.

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Early Career Academics Network survey

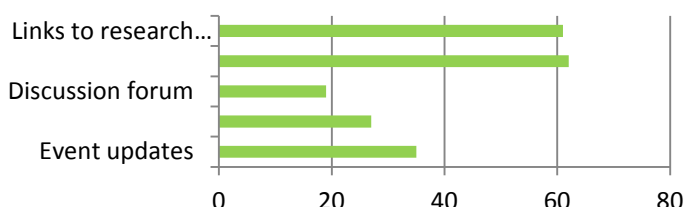
Anita Dockley, Research Director

In December, we asked all ECAN members and recipients to complete a short survey about ECAN, what they value about the network and how members would like to see it develop. Eighty-nine people responded which has provided us with ideas about how we can continue make ECAN relevant and useful to you all as well as encourage more people to join up.

Social media was a theme in the responses, with many of you valuing our Facebook group, indeed many of you identified it as the most useful contact we have with you. Your responses also revealed an appetite for information via Twitter, perhaps event timetabled Twitter chat, and more podcasts. We will certainly seek to maximise these opportunities and use social media more as an alert to new publications, new research, upcoming events or new member updates.

We have also identified that our members would like us to facilitate more events targeted primarily at ECAN members that are regional. This supports another key aspect of ECAN that you value – the

What would make our web pages (either on the Howard League website or on Facebook) more useful to you?



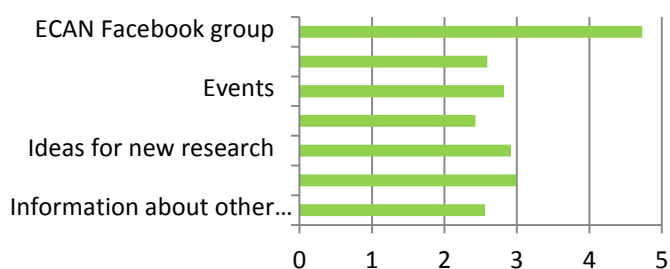
opportunity to network and find fellow academics working in areas that complement your research. One respondent requested alerts when new members are added to the network. This is certainly something which we can do.

I am pleased to say that your response to the ECAN bulletin itself was positive. It was good to see that one ECAN member valued the profile that his article gave him, and he felt it had helped his career development. It was equally gratifying that many of you also use the bulletin as a teaching resource with your students. Please remember this bulletin is aimed at showcasing, as well as supporting, early career academics so don't wait to be asked to write an article based on your work – contact me.

We are certainly going to try and implement some of the ideas you had – hopefully you will begin to see the difference very soon. I am aiming for a more vibrant, relevant and active network.

The full survey responses can be [downloaded from our website.](#)

When using ECAN, please rank how useful you find the following



Research events

Offender desistance policing: What if evidence was used to redesign the gateway to criminal justice?, 4 December, the London School of Economics

Reviewed by Marie-Aimée Brajeux

Since 2011, the What if...? series of seminars has been taking a sideways look at penal policy initiatives. On 4 December 2013, Peter Neyroud was invited to present his research project 'Operation Turning Point' as part of the series. He was joined on the panel by Frances Crook (chief executive of the Howard League for Penal Reform), Professor Gloria Laycock (Director of the Jill Dando Institute of Crime Science) and Professor Paul Eklom (UCL), as well as an inquisitive and knowledgeable audience.

In the first part of the seminar, Neyroud presented 'Operation Turning Point', which focuses on the gateway to criminal justice and how it can be made to work better for both victims and offenders. Since the 1970s and the introduction of cautions, very little research has been devoted to this area, and yet, as Neyroud pointed out, conviction is very likely to lead to more offending for those offending for the first time. In fact, swiftness and certainty of punishment is far more efficient than the imposition of a harsh punishment. The research programme therefore seeks to apply principles of effectiveness, efficiency and legitimacy in using practical evidence to



redesign the gateway to criminal justice. It creates a randomised triage system, identifying low-risk cases earmarked for prosecution and assigning them to either follow the regular course of trial, or deferring prosecution and agreeing a contract with the individual as a desistance mechanism. The programme then compares reoffending rates, costs, benefits and victim satisfaction between the two courses.

The programme has been rolled out progressively, beginning with about 10 cases and then expanding to the whole of Birmingham. The measures agreed have mostly included reparation and rehabilitation, but also movement constraints in about a third of cases, and so far it has seen high levels of compliance and very high levels of attendance. The trial stage has indicated some areas for potential improvement, in particular in relation to the consistency of decision making at the initial stage, but there has also been very positive findings in terms of victim satisfaction.

Two main issues were brought up in the discussion which followed the presentation, raising important questions about the programme's premise and



progress. First of all, Gloria Laycock and various audience members highlighted the fact that once an individual is caught, they are often already on their way to being a confirmed criminal, and that more effort should be focused on prevention before they even reach the gateway of the criminal justice system. While Neyroud acknowledged that this was a potential issue, he also pointed out that the programme had the crucial advantage of not representing a conviction, and not even an admission of guilt. As a result, it allowed for justice professionals to engage with those who offend, particularly young people, from a position of trust and opportunity.

The second issue was raised by Paul Ekblom, who questioned the ability of police officers to embrace and carry out such an important role in identifying cases. The need to consider personal circumstances and context when carrying out this decision-

making process represents a clear change in the policing approach, inviting parallels with probation. This change could make it difficult if not impossible to implement and arguably places an unfair burden on police forces by requiring a 'schizophrenic' approach to their work. In response, Neyroud explained that 'Operation Turning Point' had invested heavily in their training programme to alleviate this risk. Neyroud also pointed out that training programme was attended by a broad range of officers, rather than focusing on a smaller specialised team, an approach which has created an opportunity to engineer a broader change of perspective in policing.

If the wider trial confirms the programme's initial hypothesis, 'Operation Turning Point' could provide clear scientific evidence of an alternative to the current 'revolving doors' of the criminal justice system.

Upcoming events

Community Programmes Awards 2014

The Howard League for Penal Reform's Community Programmes Awards aim to increase public and government support for community sentences. The awards celebrate success and promote positive practice in the delivery of community sentences and community programmes. The 2014 awards are now open for nominations.

We are looking for nominations in the following categories:

- Community sentences for young people
- Community sentences for adults
- Women
- Education, employment and training
- Restorative Justice
- Police-led diversion – young people (*New*)
- Police-led diversion – adults (*New*)

Further information can be found at:

<http://www.howardleague.org/community-programme-awards/>



Re-imagining Youth Justice Conference 2 April 2014, 9:30am–5pm The King's Fund, 11–13 Cavendish Square, London W1G 0AN

To celebrate five years of U R Boss, with its ground-breaking mix of participation and legal work both behind bars and in the community, the Howard League is holding a one-day conference to take stock of youth justice and look to the future.

Theory meets policy-making meets practice, as speakers from all three fields debate the big questions. How can we re-imagine youth justice at a time of straitened resources? What have young people themselves decided must change? What will government plans to reduce reoffending and improve resettlement mean for both young people and practitioners?



Alison Saunders

[Book your place](#) and join high-profile speakers, U R Boss young advisors, academics and practitioners at this national conference which will map the way for positive change.

Call for papers

We are looking for papers from academics, policy makers and practitioners from within the youth justice, sociology, criminology and legal disciplines.

Please submit abstracts to: catryn.yousefi@howardleague.org
[Find out more and how to submit.](#)

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Confirmed speakers

[Frances Crook OBE](#), Chief Executive, the Howard League for Penal Reform

[Nick Hardwick CBE](#), Chief Inspector of Prisons

[Lin Hinnigan](#), Chief Executive, Youth Justice Board

[Dan Jarvis MP](#), Shadow Justice Minister

[Alison Saunders CB, QC, LLB](#), Director of Public Prosecutions



Nick Hardwick



Lin Hinnigan

Recent research

No Fixed Abode: The implications for homeless people in the criminal justice system

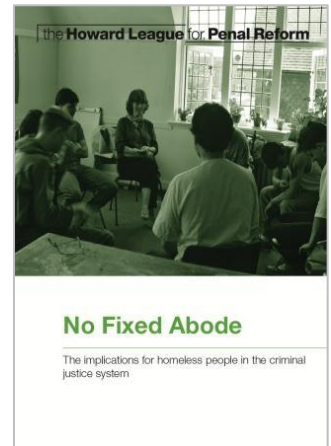
Owing to a lack of reliable data, the true number of homeless people in contact with the criminal justice system is not known. According to figures from the Centre of Social Justice, a third of people leaving prison say they have nowhere to go. Including those on remand, this could be up to 50,000 people annually. New research published by the Howard League for Penal Reform explores the key problems faced by homeless people in contact with the criminal justice system. The research was undertaken by Dr Vickie Cooper of Liverpool John Moores University, who interviewed people who were homeless and had been or were currently imprisoned. *No fixed abode: The implications for homeless people in the criminal justice system* unpacks experiences of individuals in semi-penal accommodation, considering its impact both on their propensity to reoffend and potential for being recalled to custody. The research was undertaken in North West England and was based on a total of 34 interviews. All names of research participants have been changed.

Homeless people in the criminal justice system are faced with numerous complications regarding their release from custody. They are more likely to be remanded to custody as the ability of criminal justice agencies to monitor them is compromised by their lack of a fixed address. Participants in the study felt they were discriminated against by the criminal justice system because they were homeless. Some participants suggested that they were unfairly remanded to custody because they did not have accommodation:

I did a four month remand that if I'd have had an address I wouldn't have had to have done, because I had nowhere to live, there was nowhere to bail me too. They always say at court ... because I don't



Vickie Cooper



have a stable address, they say, 'due to fear of flight, Miss [x] must be remanded into custody' for things that I wouldn't be remanded for. I get sentences for things that I wouldn't get sentences for because I'm not deemed appropriate for any probation or community sentence orders because of the fact that I'm homeless. (Shirelle, 36)

To avoid being remanded to custody, some people admitted to giving a false address, which put them in breach of their bail conditions. A participant described how he felt compelled to lie in court about having an address:

I said I was living in the Salvation Army ... I lied to save my own neck basically, so I could stay outside rather than be inside. I would have got six months on the spot otherwise. Then I would have missed summer out again. I would have come out at the same time in winter again in December and what am I going to find then? ... It's been going on for years and years this now and it's wearing me down. (Kenny, 45)

Prior or post custody, people with no home can be temporarily accommodated in hostels in the community. Described as

'semi-penal institutions', the hostels subject residents to surveillance and supervision as part of their residence license. The study found that men had negative experiences of the strict licensing terms and conditions of hostel accommodation. Unrealistic expectations placed on residents, restrictions meaning residents were sometimes unable to work, and an increase in the powers given to the Probation Service to allow recall with less bureaucracy, resulted in men being recalled to prison and becoming 'stuck' in the release–recall web of punishment.

I got recalled in last January and I was in for five months. I got out, went back to a hostel and this is basically non-residing that I'm coming in for because I don't want to stay in a probation hostel... they are not helping me. When people say to me 'sum it up what it's like there' I say it's like a strict open prison. I don't think I should be in a hostel like that where I'm supervised where I've got curfews because, I have done my punishment. I wanted to work and I wasn't allowed to, you know? And the consequence of it out of my six and a half year sentence is that I've done just over five years of my sentence in jail.
(Callum, 32)

In contrast, the study found that women had mostly positive views about their hostel experiences. All were involved in group work activity that focused on women-centred offending-related needs.

They have been brilliant. They have helped me get a doctor because I am a drug user, I've only been clean now two days so they helped me get a script with the doctors and they are going to help me go on the house search next week to get

a flat. Yeah, they've been great with me. They've helped me sort all my benefits out but I know I'm safe and no one can touch me here, it's just nice to feel safe and have somewhere to live for a change.
(Belinda, 45)

...loads of support like drug councillor and a key worker and when you sign up to come to here you do groups every day and it's like stress awareness, anger management, drug awareness ... women empowerment, you know about domestic violence and stuff. Yeah, it's really, really good.
(Natalie, 38)

However, the study also found that women were moved away from their home areas to be accommodated due to the scarce availability of hostels for women. There are currently six hostels for women, and 94 for men. Moving women to new communities can exacerbate feelings of social exclusion and isolation, trigger emotional distress, and deprive them of feeling that they belong – all of which can intensify problems associated with offending.

The study found that homeless people are regarded as 'risky' because they have no fixed abode, increasing the likelihood that they will be remanded in custody pre-trial and undermining attempts to resettle and rehouse them post release from prison. Experiences of hostel accommodation were found to be highly gendered.

The full report includes a set of recommendations for improving the experiences of homeless people in the criminal justice system, and is available to download from our website.

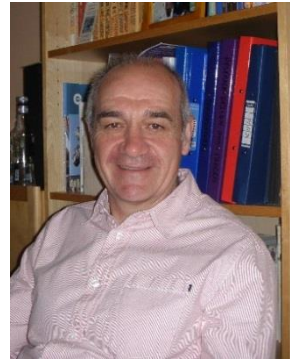
Does familiarity breed contempt? A conceptual and theoretical analysis of 'mate crime'

Update by Frith Taylor, Howard League research intern

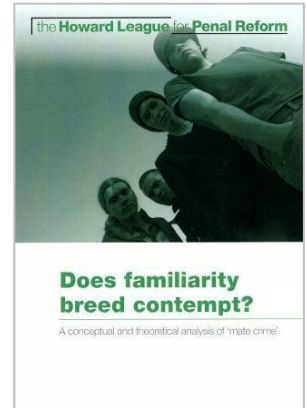
Gerard Doherty's paper, *Does familiarity breed contempt? A conceptual and theoretical analysis of 'mate crime'* is the first of the Howard League's John Sunley Prize 2013 winning dissertations to be published. Doherty's research critically assesses the term 'mate crime' as a means of furthering understanding of offending behaviour against disabled people.

Doherty states that current theories on the subject of hate crime, based on the assumption that offending is motivated by the group affiliation of the victim, typically suggest that those who commit hate crime offences tend to be strangers to their victims. Recently, however, commentators on the subject of disability hate crime have proposed the notion of so-called 'mate crimes', which occur when disabled victims are in fact familiar to those who commit hate crimes against them. Doherty's research sets out to establish whether 'mate crime' can be construed as a theoretically legitimate sub-set of hate crime, firstly scoping the ways in which the term is used with a view to establishing a working understanding of the concept of 'mate crime', and then seeking to apply that understanding to nine 'mate crime' cases involving the killings of disabled people. In particular, this research suggests that prejudice, a key characteristic of hate crime, is manifested in 'mate crimes' in the form of hostility and contempt, and that the perceived vulnerability of the victim appears to be influential in offending.

Doherty states that there is considerable evidence to suggest that these crimes were committed by people offending in groups rather than individually. Another significant finding was the low reporting rate of hate crimes against disabled people when compared to other hate crimes.'



Gerard Doherty



Doherty stresses the importance of the term 'mate crime', and states that 'there is a tendency to categorise all crimes against disabled people as forms of abuse rather than hate crimes.' The paper also draws attention to the potentially problematic terminology surrounding 'mate crime'. Doherty's paper draws on theorists such as Miller, Parker and Gillinson (2004: 28), among others, who refer to a social model of disability:

Most people have an impairment, however minor – but they are not disabled unless there is a negative social response to them because of the impairment...Disability describes how society responds to people with impairments; it is not a description of a personal characteristic. A disabled person is not a 'person with a disability.'

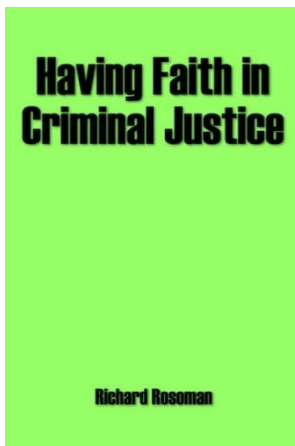
As Doherty writes, this 'complex interweaving of situational and discriminatory notions of vulnerability' is highly problematic, 'Hence, Chakraborti and Garland (2012) propose that, rather than seeing vulnerability as an inherent form of victimhood, the term 'vulnerable' should be used to encapsulate the way in which perpetrators see their victims.

Visit our [website to download the paper](#).

Book reviews

***Having Faith in Criminal Justice* by Richard Rosoman (FastPrint, 2012)**

reviewed by Rose Parkes



Canton recalls (2011, p.20) that '*Early probation was a confidently moral enterprise, originating in the work of Police Court missionaries, with their strong Christian convictions and opposition to alcohol*'. More recently, the role of faith in the

commission of crime; coping in prisons; rehabilitation; and desistance has been a focus for researchers (see, for example, Martin 2013; Cunningham Stringer 2009; Skotnicki 1996; Giordano *et. al.* 2008). This book by Rosoman, therefore, is a welcome addition to the literature that seeks to make the links between faith and criminal justice which he acknowledges is an under-researched area. Rosoman is a Probation Officer but, in addition, a theologian having trained for parish ministry at Ripon College, Cuddesdon. Drawing on his knowledge and expertise from these roles, he has put together an accessible, concise and informative guide to the way in which Christianity has, and continues to be, relevant to contemporary criminal justice.

The book begins with an acknowledgment that other faiths and belief systems have much to offer criminal justice but, nevertheless, goes on to focus purely on the Christian tradition. It subsequently explores a range of topics including Understanding Offending; Restorative Justice; Risk and Blame; Victims; Politics and Fear; and Values and Morality. One of the key strengths of the book is that it takes each theme and makes links to Biblical stories, Christian values and beliefs often

via the use of particular verses. Bearing in mind that criminal justice policy and practice in the UK predominantly takes a secular form, the way in which the author has interwoven religious doctrine with explanations of its relevance is noteworthy. This is because he has managed to do so in a manner that does not seek to proselytise, but one that merely highlights the connections between Christian faith and ethical practice.

While the book aims to promote debate and discussion about the relevance of religion in criminal justice, it also has much to offer the reader who is less concerned with spiritual matters. This is because the text provides an overview of key developments within probation practice including the current reorganisation under the Transforming Rehabilitation agenda. It is clear from Rosoman's writing that he is very much opposed to the privatisation of probation services which, he argues, will lead to the destruction of knowledge, skills and expertise that have been built up by probation workers to date.

In Chapter 10 he discusses the fear that has been generated by scaremongering politicians keen to appear tough on crime and, furthermore, how sections of the media have sought to capitalise on this trepidation to the extent that the 'offender' is demonised and excluded from society. Rosoman encourages the reader to resist this tendency to discriminate against people that have committed crimes by reminding them that Christianity believes we are all sinners in one form or another.

My one issue with the contents is that the author undermines his own arguments that prison 'sometimes' (p.53) works by the assertion that politicians have been untruthful when claiming that 'prison works'

(p.58) but, this minor fault aside, the book has much to commend it for students and members of the general public who wish to obtain a better understanding of the way in which the criminal justice system works, and how the Christian faith can support the objectives it aims to achieve when working with those who offend.

Rose Parkes, Senior Lecturer in Community and Criminal Justice, De Montfort University

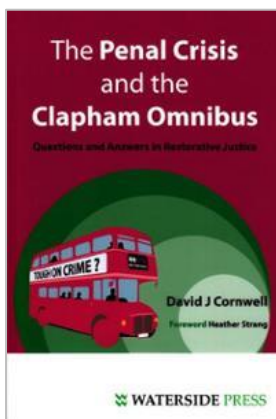
(Please note that the reviewer has no association with or personal knowledge of the author despite the fact that he is a former student of De Montfort University).

References

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- Martin, G. (2013) *Understanding Terrorism: Challenges, Perspectives, and Issues*, 4th edition, Thousand Oaks, California: Sage Publications.
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***The Penal Crisis and the Clapham Omnibus: Questions and Answers in Restorative Justice* by David J Cornwell (Waterside Press, 2009)**

reviewed by Thomas Guiney



There is a story beloved of political scientists that, on hearing the arguments of a delegation invited to the White House, Franklin Delano Roosevelt had replied with the words, "fine you've convinced me, now make me do it."

This wonderful statement of political expediency captures something of the uncertainty that surrounds contemporary discussions of restorative justice. As the criminal justice system comes to terms with significant reductions in public expenditure, a burgeoning prison population and stubbornly high rates of reoffending, there is surely a clear and present need for new thinking on crime and punishment. And yet, restorative justice has so far failed to make the decisive jump from the margins to the mainstream of criminal justice policy. In *The Penal Crisis*, David Cornwell confronts this

problem head on and takes aim at 'prison obsessed' systems of retributive justice that do little to improve the lot of those who offend, their victims or the wider community.

The Penal Crisis is the final instalment of a restorative justice trilogy that builds upon the theoretical groundwork of *Criminal Punishment and Restorative Justice* (2006) and *Doing Justice Better* (2007). Organised in three sections, Cornwell offers a practically orientated analysis that sets out to demonstrate how a restorative penology could be given operational effect. Part one surveys the contemporary landscape of criminal justice and illustrates how a restorative justice methodology might breathe new life into a penal system that has become little more than a human warehouse since the 'nothing works' movement of the late 1970's eroded faith in the rehabilitative ideal. Part two offers a timely and much needed treatment of the relationship between restorative justice and imprisonment. Where present penal regimes do little more than sanction breaches of the criminal law, a genuinely

restorative penal regime would focus on the harm caused by criminal behaviour and the need for purposive custodial sentences structured around meaningful programmes of self-analysis and reparative action. In Part three, Cornwell turns his focus to the vexed question of community sanctions and illustrates how a restorative approach premised upon an integrated correction service could rescue non-custodial sentences from the widely held view that anything less than prison is a 'soft option.'

The Penal Crisis will be of interest to students, practitioners and criminal justice policy-makers. At a time when the Coalitions' Offender Rehabilitation Bill is likely to result in significant changes to probation and aftercare services, *The Penal Crisis* challenges many of our assumptions about punishment and offers an alternative vision for the criminal justice system. Cornwell is at his most effective when espousing the virtues of a restorative approach that seeks to address the harm

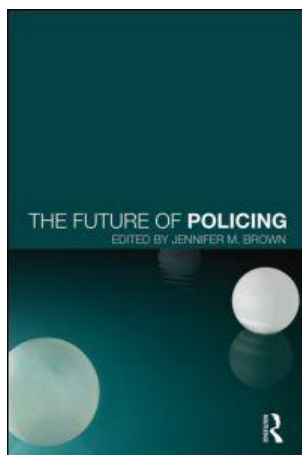
done by crime and help those who offend take meaningful steps to address their offending behaviour. There are occasions when Cornwell appears to labour under the weight of his own ambition; the link to the Clapham Omnibus is underdeveloped, while references to an uninformed public, sensationalist media and ever-punitive politicians can feel like a counsel of despair. Equally, some readers may question the desirability of a bifurcated system of punishment premised upon engagement with correctional services.

But taken as a whole, this is a welcome contribution to criminal justice debate. Many books have championed the virtues of restorative justice; *The Penal Crisis* tackles the altogether more difficult dimension of Roosevelt's gambit and seeks to articulate how restorative justice might be achieved in practice.

Thomas Guiney is a PhD Candidate at the London School of Economics

***The Future of Policing* edited by Jennifer M. Brown (Routledge, 2014)**

reviewed by Sam Frost



Theresa May once said "in tough times, everyone has to take their share of the pain." For the police service in England and Wales, the pain is not restricted to falling police numbers, but felt in the change to its very identity. The Coalition Government's

programme of austerity has prompted a revaluation of the role of policing in England and Wales, and its future role is seen as one of deterrence, a role that emphasises reactive crime fighting.

The collection of essays in *The Future of Policing* points to a new policing paradigm for England and Wales, one with a mandate to promote as well as maintain order, with a social purpose that emphasises the prevention as well as detection of crime. Put simply, it is intended as a companion to the Independent Police Commission's report *Policing for a Better Britain*, drawing together police professionals and academics into a single volume. The book challenges assumptions that underpin contemporary police reform, and suggests key ideas for outlining a modern progressive vision of policing.

The book is split into six sections that cover a wide range of topics. The first two sections address the purpose of the police and its culture, including insightful essays on

updating Peel's police principles and how increasing the number of policewomen will contribute to the reform of police culture. The third and fourth sections focus on relationships, delivery and resourcing, with essays emphasising the importance of partnership work in neighbourhood policing and the role of the police service in tackling hate crime. Finally, the last two sections address changes that can be made to enhance the police service, with essays focussing on its professionalism, education and accountability.

What is striking about these essays is their ability to look to the future of policing, introducing new ideas tested by empirical research, as well as to look back. Many contributors cite lessons from the past, and experiences from overseas. Others look to the past for ideas that could continue to inform police practice in the future, many drawing on the preventative approach to

crime and disorder in Peel's policing principles.

Intended to compliment the report by the Independent Police Commission, the collection offers a persuasive vision for policing that will attract the interest of academics and professionals in the police service.

With contributions from over 40 academics and police professionals, the breadth of research in this collection provides a wealth of insight and experience. Although the police service faces a period of change, this essay collection presents a number of ideas that could help to ensure effective policing in the future.

Sam Frost is a Campaigns Intern at the Howard League. A feature by Jennifer M. Brown will appear in the next issue of the ECAN bulletin.

Member profile

Dr Allan Branson

I am a University of Leicester PhD graduate from the Department of Criminology. I earned a BA in Communications, a MSc in criminal justice from Temple University and St. Joseph's Universities respectively, and I am a National Honor Society member. I am also a 23-year veteran of the Philadelphia Police with the rank of Lieutenant, assigned to the Internal Affairs Division, and a graduate of the FBI National Academy.

My research explores race-based perceptions and media representations as well as the FBI's popularised criminal profiling matrix, which I suggest has created the dangerous delusion that serial murders are frequently only associated with specific ethnic groups. My article *African American Serial Killers: Over-Represented Yet Underacknowledged* was recently published in the Howard Journal of Criminal Justice. A prelude to my doctoral thesis *The Anonymity of African American Serial Killers* was published on the Crime Culture website. I teach at Chestnut Hill College and Temple University, and recently sat as an adviser on the board of SEPCHE (The Southeastern Pennsylvania Consortium for Higher Education) planning workshops for racial diversity.

In the US there is a dichotomy regarding the historic negative images of black men, readily depicted by the media within a criminal context, and what appears to be a reluctance to portray them as serial murderers. My research involved a combination of critical discourse analysis, case studies, and quantitative analysis of social artefacts. An overview of the significant impact of slavery, the creation of media imagery regarding criminality from the late nineteenth century to the present, and the overrepresentation of African Americans in the penal system provide a framework to examine how racism in the U.S. has evolved, how multiple forms of popular



media have shaped perceptions of both blacks and serial murderers, and how the FBI's criminal profiling matrix (Ressler et al., 1992) developed in accord with these cognitive patterns. All combine to create a dangerous delusion that blinds law enforcement to possible perpetrators of serial murder.

My current research illuminates the systematic mass imprisonment of minorities in the US which has created a 'punishment industry' by providing a continuous source of cheap labor reminiscent of slavery. Furthermore, the continued mass incarceration of black males via legislation such as the 'three strikes' laws has created what amounts to modern 'Jim Crow' laws whereby released prisoners are no longer able to vote in municipal, state and federal elections they have been rendered non-citizens.

For me, the Howard League is a natural fit, based on my research regarding race based perceptions of crime as well as mass imprisonment. As the oldest penal reform organisation in the UK, the Howard League's efforts to reform penal institutions is internationally recognised. Furthermore, the organisation's ability to draw its membership from scholars, students, government officials and legal professionals worldwide, suggest its continued steadfast existence and proactive approach. I am honoured to be a part of the Howard League.

Ressler, R. K., Burgess, A. W. and Douglas, J. (1992). *Sexual Homicide, Patterns and Motives*. New York: Simon & Schuster.

Guidelines for submissions

Style

Text should be readable and interesting. It should, as far as possible, be jargon-free, with minimal use of references. Of course, non-racist and non-sexist language is expected. References should be put at the end of the article. We reserve the right to edit where necessary.

Illustrations

We always welcome photographs, graphic or illustrations to accompany your article.

Authorship

Please append your name to the end of the article, together with your job description and any other relevant information (e.g. other voluntary roles, or publications etc.).

Publication

Even where articles have been commissioned by the Howard League for Penal Reform, we cannot guarantee publication. An article may be held over until the next issue.

Format

Please send your submission by email to anita.dockley@howardleague.org

Please note

Views expressed are those of the author and do not reflect Howard League for Penal Reform policy unless explicitly stated.