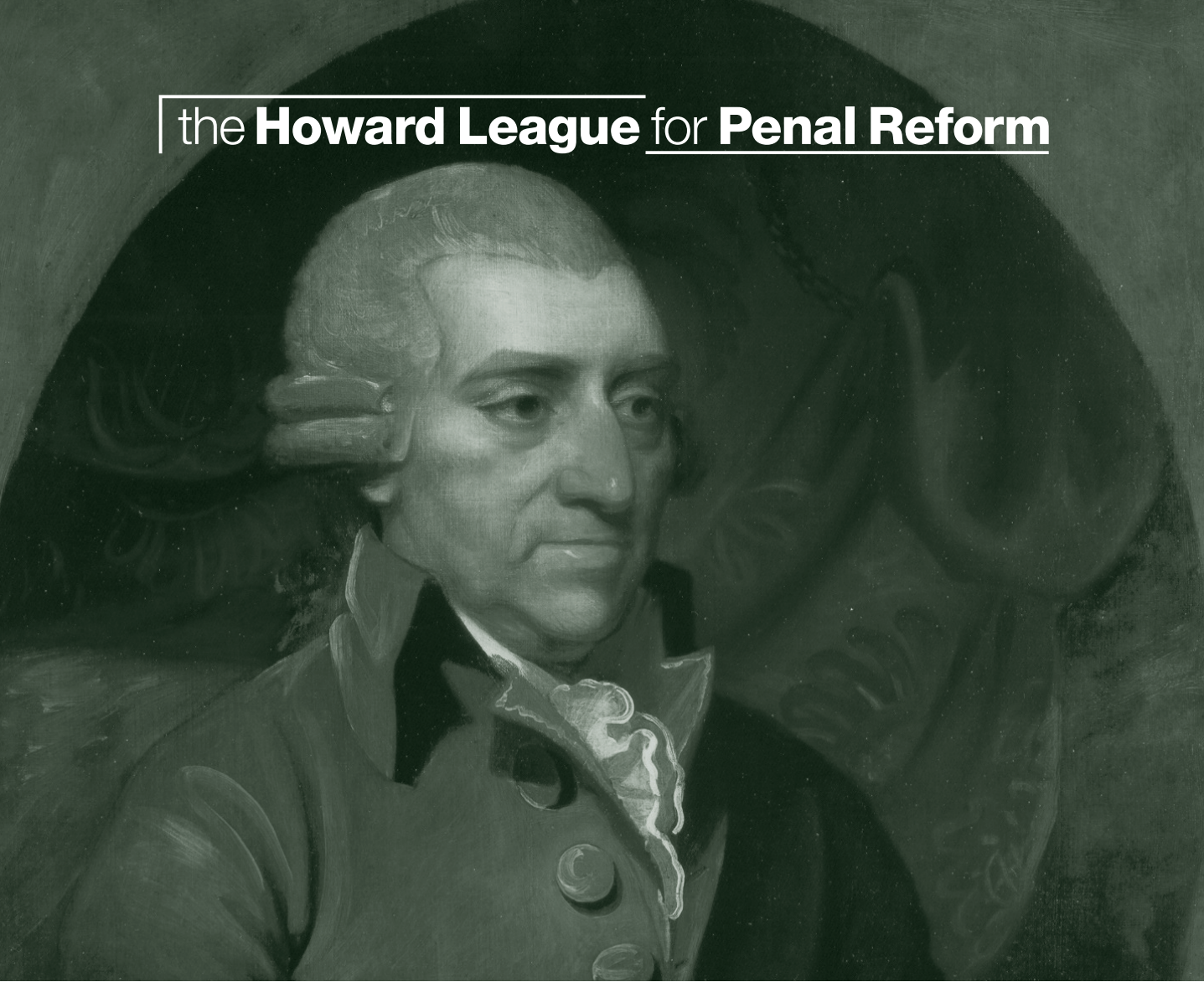


the **Howard League** for **Penal Reform**



Asking new questions

Lessons relearned from John Howard

Asking new questions: Lessons relearned from John Howard

A pamphlet for the Howard League for Penal Reform by Tom Vander Beken

Foreword

The Howard League for Penal Reform is the world's oldest penal reform charity. We are celebrating our 150th birthday throughout 2016. John Howard, as our namesake, is pivotal to the shape and nature of the charity through the years.

In 1866, the Howard Association was formed. Although it was almost eighty years after the death of John Howard, the founders felt that there was a need to campaign for reform in the independent style practised by its namesake. The aim of Howard Association was the “promotion of the most efficient means of penal treatment and crime prevention” and to promote “a reformatory and radically preventive treatment of offenders”. In its first annual report in 1867, the Association stated that its efforts had been focused on “the promotion of reformatory and remunerative prison labour, and the abolition of capital punishment.”

The Penal Reform League was founded in 1907. In 1918, Margery Fry became Honorary Secretary and it was under her guidance that the Howard Association and the Penal Reform League merged in 1921 to form The Howard League for Penal Reform.

Today, the Howard League for Penal Reform continues to campaign for change in the criminal justice system, acting as an independent voice just like John Howard.

We are grateful to Thomas Vander Beken for firstly agreeing to speak about his research using the prison journeys of John Howard as his inspiration at our international conference, [Justice and Penal Reform](#) and then for agreeing to write this pamphlet. This pamphlet will add to our birthday celebrations as it is published to correspond with John Howard's own birthday in September 1726, some 290 years ago. What is salutary for us penal reformers today is how relevant his work and ideas remain.

Anita Dockley

Research Director, The Howard League for Penal Reform

John Howard in context

This pamphlet is based on a study on the role of prison in Europe. The study comprised prison visits in six countries, as well as reading about, observing, and listening to those who could say something about those prisons.¹ The study was inspired by the approach and work of John Howard (1726-1790) more than two centuries ago.

John Howard: The traveller

Anyone interested in prisons ought to know John Howard. His countless visits to correctional institutions and places of confinement all over Europe, and his books describing, with exacting precision, what he found were an eye-opener for eighteenth-century society. He set people thinking about what prisons were like and what they should (or should not) be. Although he was a man of rather limited personal ambition and limited skill in terms of policymaking, his activities and publications had a great impact, which often ended up placing him in the foreground as a major philanthropist and prison reformer. Small wonder, then, that organisations such as the Howard League for Penal Reform bear his name. The content of his books remains highly relevant and readable to this day, especially his iconic *State of the prisons in England and Wales with preliminary observations*, and an account of some foreign prisons and hospitals (first published in 1777) (Howard, 1792) and *Prisons and lazarettos: An account of the principal lazarettos in Europe of 1789* (Howard, 1791).

John Howard's undertaking in the late eighteenth century was to enter prisons in order to determine for himself what they looked like and how they functioned. It is clear from his writings that he was mainly concerned with the organisation of prison life and how prisoners were treated. His flood of prison visits and his European tours were prompted by his appointment as High Sheriff of Bedfordshire in 1773. As High Sheriff he made an official visit to the county town gaol. The things he witnessed struck him with revulsion. However, it is doubtful whether that experience directly and solely caused Howard to spend the rest of his life visiting prisons and writing up his visits. The cause of his wanderlust may be found more in his character and the course of his life than in some particular question in his mind that he needed to resolve (West, 2011).

John Howard was born in 1726 and lost his mother at the age of five. His father re-married but his stepmother also died in 1738. Howard was sent to school but did

¹ This pamphlet is based on the foreword and epilogue of Vander Beken, 2016 and on Vander Beken, 2015.

not display any particular talent and would never learn to write flawlessly. His later *State of the Prisons* was probably only completed with substantial editorial support from others (England, 1993). Howard's father was a successful and wealthy London upholsterer who apprenticed John to a food merchant. John was left without parents aged 16 when his father died in 1742. He was, however, left a great fortune with the stipulation that John should only receive his inheritance on his twenty-fifth birthday. This was ignored, and at the tender age of seventeen he received it all without delay. John never had to work again for the rest of his life. Like many a wealthy youth in that time, he went off on a Grand Tour; his lasted from 1745 to 1748 and took in France and Italy.

On his return, he suffered from health problems. His eating and drinking habits were drastically and irrevocably altered; he confined himself to a diet of a few vegetables, seeds, water, milk and tea. Around 1750, he went for a cure at Hotwells in Bristol (a renowned Georgian spa to rival Bath) after which he moved to London. Here, he lodged with Sarah Lardeau in Stoke Newington. She was a well-heeled widow who ceaselessly cared for John Howard even though she was ailing. This in turn, led him to propose and marry her in 1752. They made an odd couple particularly given the age difference; Sarah was twice as old as him. Sadly, she passed away just three years later, leaving Howard a widower.

In 1757 Howard resumed his travels. He set sail for Portugal wishing to see the impact of the huge 1755 Lisbon earthquake for himself. Fate determined otherwise. His ship was captured by pirates off the French coast and he was held in Brest, Brittany. This provided Howard with the dubious pleasure of seeing the inside of a prison for the first time. He obtained his liberty quite quickly.

On his release Howard settled in Cardington, a village near Bedford north of London. He owned a good deal of land and houses and so decided to devote himself to managing the estate. In 1758, he married Henrietta Leeds, who helped him manage and extend the Cardington estate. Everything indicates that they were a happy couple. At this time Howard developed another of his passions: agriculture with the potato variety that he bred still known today (England, 1976). This happiness was not to last. In 1765 his son, Jack was born but just a few days later his wife, Henrietta, died. John Howard was not only a widower, again, but also a single father.

Much has been written and speculated about Howard's relationship with his son Jack. In the first few years, and occasionally later on as well, Howard is documented speaking and writing about his son in very affectionate terms. It is clear, however, that he – like many men of his time – was unable or unwilling to bring up his child on his own. Jack was accordingly packed off quickly to schools and nurses. There are accounts of Howard being an extraordinarily strict father who demanded absolute

obedience and who did not shy from administering severe punishments. Some see in these claims the reason for Jack's miseries in life (for a discussion about this see West; 2011: 85-90). What we do know is that in some of his letters, even in the final days of his life, Howard made it perfectly clear that he loved his son. It was also clear, however, that he demonstrated precious little of that love.

Nonetheless, Howard made sure that his son was being well cared for but seldom saw him. Moreover it seems that Howard made special efforts to absent himself from home after the death of his wife Henrietta. He wanted to be away where he was untroubled by home and child. In 1767, when Jack was just 2 years old, he made a visit to the Netherlands. And from 1769 to 1771 he progressed through Italy, France, Switzerland, the German states and the Netherlands again. When he finally returned to Cardington in 1773 he was, suddenly, offered the appointment of High Sheriff of Bedfordshire. It was at that time that he decided the pretext for his travels would be prison visiting.

It is difficult to reconstruct the routes that Howard travelled in the years that followed. He called at all the prisons he could find, whether alone or on horseback or with a coach and servant. He covered England, Wales, Scotland, Ireland and almost all corners of Europe. He did not content himself with visiting most of these prisons just once, but made a habit of returning several times so that he could keep up with what had changed since his last visit. There were some institutions that he visited eight or nine times. On each occasion, he briefly wrote up what he had gleaned and his impressions: he was a meticulous record keeper noting how many prisoners were held at the institution, the weight of the bread ration, whether the light and air was sufficient, and so on. Therefore, perhaps unsurprisingly, he was interested in recording the distance he travelled; calculating that between 1773 and 1783 he had covered no fewer than 42,033 miles on his way to prisons. This figure did not include some of his later, longer journeys that followed including to Russia and the Ukraine. At this time he was not only touring prisons but also lazaretti (plague houses) and other places of detention.

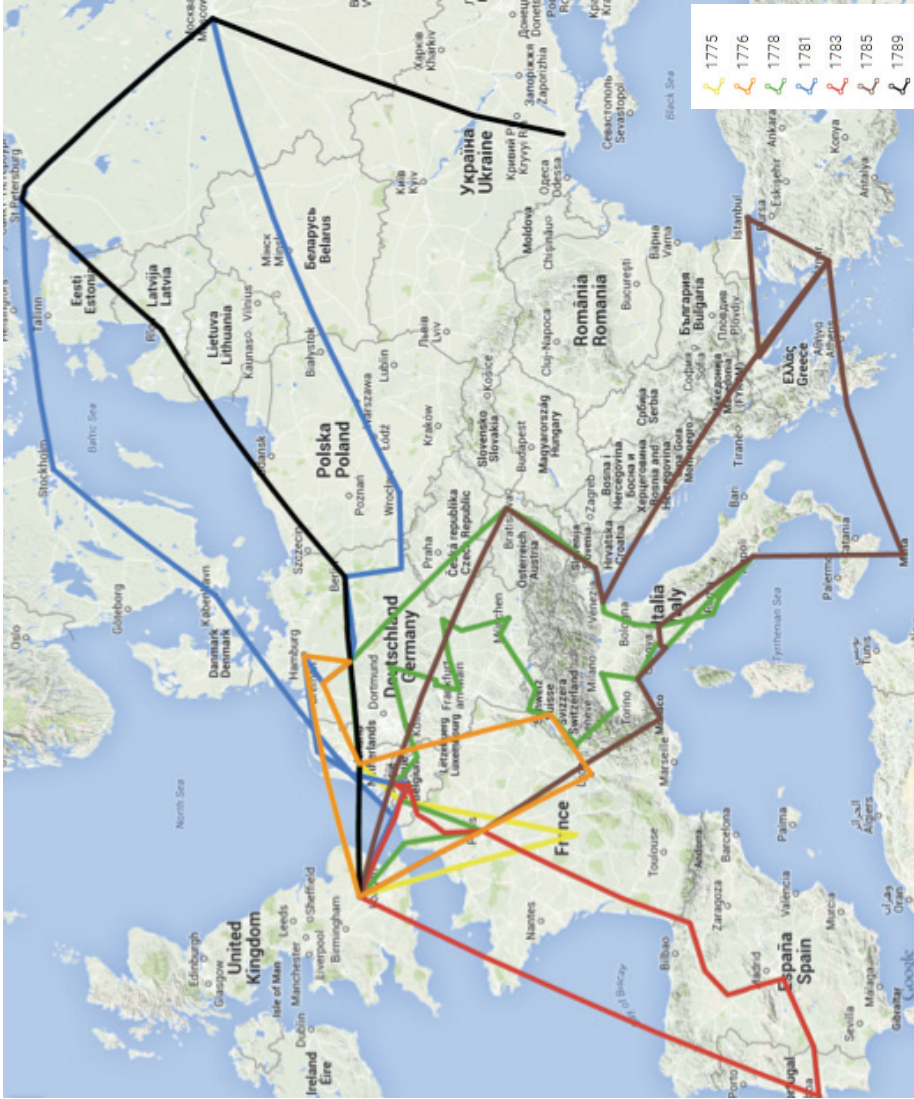
The maps below show Howard's visits to British prisons in 1774 and his foreign travels from 1775 onwards.²

² These maps have been produced on the basis of information in Howard's publications (Howard, 1791, 1792) and in biographies (Aikin, 1814; Brown, 1823; Dixon, 1852; Field, 1850; West, 2011).

Asking new questions: Lessons relearned from John Howard



John Howard's travels in England during 1774



John Howard's European journeys between 1775 and 1789

John Howard: An inspiration

One of Howard's biographers called John Howard a curious man (West, 2011). Indeed, he did seem to have a special and somewhat strange personality and he certainly was also curious in the way that he always wanted to discover new things and learn. As a man of his time, he was resolute in his conviction that views and conclusions must be based upon empirical observation. Although he was anything but a man of science neither was he a man of letters nor a rhetorician, he did have an abiding passion in all his undertakings for observations and measurements in all their forms. For instance, in the years before the prison bug bit, Howard was interested in temperature, even having some of his measurements, with no accompanying rubric, published in an academic journal (Howard, 1764, 1767, 1771). This passion was still evident in his prison visiting years keen to see prisons before forming a judgement on them.

Above all, Howard insisted on drawing his own conclusions on the spot based on what he witnessed, not just going by what the regulations or other documents asserted. For example, he would personally weigh the daily bread ration doled out to the prisoners in the institutions he visited. In addition, Howard was the kind of traveller who believed that seeing prisons in a range of contexts would set him in good stead to reflect on them intelligently. There is therefore no doubt that he sought to compare and used his gargantuan stock of knowledge of prisons and their various systems to make authoritative pronouncements as to how they differed and how they were alike. That said, Howard was not content with mere determinations of the situation; he also described at length what it felt like to reach this viewpoint (physically discomforting, disgusting or satisfying as the case may be) and did not shrink from airing his own views about what he had experienced. This included giving his unvarnished opinions to policymakers and very senior people, including the Tsarina of All the Russias (West, 2011, p. 243), and was swift to flag up shortcomings or urge best practice based on his research.

It may be argued that the work of John Howard carries the embryo of a contemporary carceral tour design. He was one of the first to go on site visits to prison facilities and report on how prisons were organised and prisoners treated. Unlike monitoring and inspection bodies of today, he had no other instrument or methodological tool than his own experience and moral standards upon which to draw conclusions. These comments and conclusions did not serve a direct preventive purpose although he did return to many of the prisons he had visited to see if they had taken up his recommendations and made changes for the better. However, it could be said that his reflections were used as an inspiration for policy makers.

Howard's work and approach continues to inspire and stimulate those who want to know something about prisons to make forays in and out "the belly of the beast" (Abbott, 1981). Since Loïc Wacquant criticised prison researchers for neglecting carceral tours as a method for comparative ethnography (Wacquant, 2002, p381), the issue has become contentious. Some (Dey, 2009; Huckelbury, 2009; Minogue, 2009; Nagelsen and Huckelbury, 2009; Piché and Walby, 2009, 2010, 2012) suggest Wacquant underestimates the limitations and disadvantages of visiting prisons: with hardly a prison tour that is unscripted so that the visitor only gets to see that which is on-message thereby rendering carceral tours highly misleading experiences and can leave a more favourable view of prison management than is merited by actual performance. Nor should the many ethical dilemmas around prison visiting be disregarded as Wacquant himself reflected:

... a sentiment of embarrassment, of 'dirtiness', to have infringed on the dignity of human beings by the mere fact of having been there and seen that place, and thus to have treated its denizens as one might the occupants of a zoo. (2002, p381).

According to Minogue these bad feelings are largely a consequence of Wacquant's own attitude suggesting that Wacquant accepted as an inevitability that prison visits and the subsequent contact with prisoners had to proceed in the way that he let them proceed:

Perhaps things would have been different if, when Loïc Wacquant felt this horror and this infringement of the dignity of others, he had stopped, squatted down on his haunches and stuck his hand through the bars to a man on his bunk and said: Hello, I am Loïc Wacquant, an academic doing research about prison, how are you doing?" (2009, p132).

Ethically responsible research and jail visits does appear to be a possibility, then, but one not without reflexivity (Piché and Walby, 2012).

There are also out-and-out advocates of carceral tours, who insist that much can be gleaned from ethically decent prison visiting (Pakes, 2015; Wilson, Spina, and Canaan, 2011). They celebrate the insights gained from such "prison tourists" as John Howard, David Downes (Downes, 1988), John Pratt (Pratt, 2008a, 2008b) and Sharon Shalev (Shalev, 2013). The stance that Pakes (2005) takes is that prison visits, if conducted ethically, can "be a useful tool for the comparative researcher and inform the visitor on the immediately discernible conditions in prison: the sights, the smells, the space". They can certainly, he adds, "shed light on the official stance on prisons and issues of punishment, rehabilitation, diversity and culture, and how these ideologies are reproduced on the ground". In his view, "during visits, informal

interactions can at least lift the veil, to an extent, on climate and relations between staff and prisoners. In addition, valuable glimpses can be gained in situations where non-scripted events occur” (2005, p.267). Indeed, even in relatively brief and one-off visits, the prison visitor can form impressions and collate information that would be difficult to obtain in any other way. The prison visitor can use their own five senses to understand the world of prison, as well as being in a position to piece together much of value about the scene-setting that has gone on prior to their arrival and perhaps gauge what might not have been revealed. Even seemingly routine matters such as how the visitor is allowed in and out of the prison, what security measures are applied or held to be unnecessary can help strengthen one’s grasp of what a prison is and what it is for.

Applying the Howard carceral tour method today is more complicated than it was in Howard’s time. There is probably not a single prison where one can show up unannounced, knock on the gate and expect to be let in for a look around. Prison visits need a great deal of dedicated preparation, time acquiring the requisite papers and even with the permissions in place, things can sometimes go wrong. John Howard was not always let in, notably at the French Bastille. Similarly a number of French prisons closed their doors to me too. However I did end up visiting 15 prisons in six countries between May 2013 and November 2014.¹

Unlike Howard, unless he did so and preferred to conceal the fact, I travelled and visited prisons with the assistance of local guides. Prison researchers and academic colleagues from the various countries helped me, at my request, to select prisons and gain access to them. Often, they accompanied me on the visits, occasionally acted as interpreters and importantly acted as a sounding-board for my many questions. A last way in which I differ from Howard’s approach is that I had far more opportunity than he did to consult existing written sources. Before, during and after my visits, I read all I could obtain about the prisons and the country in question.³

Finally, the inductive Howard approach of visiting prisons without a specific instrument, framework or focus in mind, can be a source inspiration too. And it could help to discover answers to questions that haven’t been asked before. Howard’s prison visits drew the first picture of how prisons were organised and the conditions in which prisoners are kept. Today this is usually well documented. Monitoring and inspection bodies, as well as researchers focusing on prison quality all cover elements that relate to that question. In my case, prison visits and travels have encouraged me to think

³ The countries were visited in the order in which they appear in this paper, apart from the Azerbaijan trip, which was not taken at the juncture that the sequence of the sections might imply: it was not the last but the first of my journeys, made in May 2013. That was the moment at which circumstances aligned to allow me to travel there; it was most likely a narrow window of opportunity that would not have recurred. I visited Britain in February and again in November 2014; Norway in March of that year; France in April and June; and Italy in November.

about and report on the role and function fulfilled by prisons in several European countries. A prison can perform many different functions, even simultaneously. Prisons can be used to hold people in expectation of a further decision (whether a sentence, a deportation order or other). Prisons can sequester people regarded as dangerous, protecting society and sometimes the individual's themselves from the damage they can wreak. Equally, they can be a means of punishing people who offend. In that case, incarceration can take on the character of retribution and revenge. However, deprivation of liberty can also be dealt out as a therapy intended to change the wrongdoer and rehabilitate them so that they can resume their place in society, preferably without resorting to crime again. Deprivation of liberty can also be applied to bring about a restoration in the broader sense: a mutual reconciliation of perpetrator, victim and society. Alternatively, it can be made a mechanism to pacify and unify a society through the judicious use of scapegoating.

Impressions from six countries

The following sections briefly report on some impressions and findings of my study using John Howard's open approach to visiting and studying prisons. The aim was to ask what are prisons for and not to provide a complete picture of prisons in a given country. The aim is to illustrate the sort of data and conclusions a Howard carceral tour design can produce.

England: The jailer's salary

In England I visited Bedford prison – mimicking John Howard's first prison visit in 1773 – and Oakwood, a category C prison for adult men, near Wolverhampton in the Midlands. These prison visits enabled me to collect and compare data and impressions from an older, local prison on the one hand and a new, privately managed and large training prison on the other. In general, I was struck by the risk calculation, rankings and tax payers' discourse in discussions about prisons in England. When John Howard started his prison travels he was looking for a precedent for paying salaries to jail keepers. Today, it seemed to me that issues about the costs of detention still seem to be high on the English policy agenda.

Further, prisons still look like instruments of punishments (places to inflict pain as retribution) than as a punishment in itself (places for deprivation of liberty). Through my Belgian lens, life in English prisons is tough. I did not hear much about prisoner's rights. I was surprised by the incentives and earned privilege (IEP) system that creates different classes of prisoners, providing additional facilities and rights to those who seem to deserve it (NOMS 2013). Vulnerable prisoners are separated from the rest and seem to live in their own niche. Foreign national prisoners sometimes follow different tracks with a view to being deported. In the past I have mainly experienced prisons as places where people are being locked up and kept busy with what is called purposeful activity. This invites the question whether this prepares people for a life after prison or whether this merely keeps them busy, out of bed and quiet during detention.

Oakwood was the first private prison I have ever visited. What I had read about this prison before my visit (including inspectors' reports) was horrible and I was prepared for the worst. It was not. Would I immediately see or feel the difference between this and a public prison? More light, maybe. Staff younger, less institutional, less of them. Where was everybody? I am used to seeing prison officers standing, sitting and chatting everywhere.

Norway: The Northern star

While travelling to Sweden, John Howard had high expectations about the quality of its prisons

In travelling through the country of Sweden, I observed the houses to be much cleaner than those in Denmark and this led me to hope I should find the same differences in prisons; especially as I was told they were visited every Saturday by an officer from the chancery. But I was disappointed, for I found them as dirty and offensive as those in Denmark. (Howard 1792:82)

Today prisons in Nordic countries are generally believed to be exceptional largely because of the excellent prison conditions and low incarceration rates. Norway, a country that Howard has never visited, has the reputation of being the brightest star in the prison firmament. I visited prisons in Horten (Bastøy, low-security, on an island, claims to be an ecological prison), Kroksrud, Ullersmo, Eidsberg and Trøgstadt. Prison facilities in Norway are excellent, mostly small in size and detain people in a variety of security levels, including open prison regimes. I was impressed by the investment made in meaningful prison activities, labour and reintegration tracks. But I do not believe that Norway is immune to what happens elsewhere in Europe. Norway's culture of likhet (equality) seems to be under pressure. Immigration and social evolutions change and sometimes divide Norwegian society. Prisons now detain many more foreigner nationals than ever before. These prisoners face deportation after having served their prison sentence. What kind of re-socialisation can be offered to prisoners with no future in Norwegian society? Norway now looks for additional capacity in Sweden and the Netherlands.

The Netherlands: The paradox of control

The Netherlands was Howard's favourite country, especially as he found the prisons there so clean. I visited prisons in Vught, Nieuwersluis and Dordrecht and saw very organised and well managed prisons (plans, implementation, feedback...), good living conditions (clean!), many special units for special (dangerous) prisoners and evidence-based interventions. But there seems to be uncertainty about their impact: imprisonment rates are characterised by steep rises and falls. Currently, the prison population has dropped dramatically, and nobody really seems to know why.

I saw a strong emphasis on the individual responsibility of prisoners to change themselves. The system invests in and rewards those who can manage and seem to deserve it (promotion and degradation like the English IEP). What about those who cannot – up to 80%?

France: Words ring hollow

I visited the French prisons of Lille Sequedin and Paris Fresnes. To me, life in French prisons was tough, even by comparison with what I saw in England. I saw a strong emphasis on security issues in the way prisons were organised. I could barely interact with the prisoners: not even just shaking hands and having a talk. An prisoner in Lille who wanted to talk to me, to tell me about what really happens in prisons, was removed with force and got a disciplinary sanction for it. It sometimes seemed as if prisoners were a part of the prison fabric/building itself. Very often, the staff just ignored their presence as if there was nobody else in the room.

I find the French system amazingly accepting of bad living conditions in prisons. I have seen old, unmaintained and dirty prisons where no French citizen would ever want to live. Prison officers seem to find that normal and just carry on. The parloir (the French term for visits room) in Fresnes is one of the worst places I have ever seen. But there was no shame in showing that to me: "It is not ideal and needs some refurbishment". To me, France looks like a lawyer's paradise. There are rules and procedures for everything and the discussion of prisoners rights is routine. But the implementation and translation of these typical French values about human rights and the rule of law into practice seems to fall short.

Italy: Dreams of Cesare Beccaria

In Italy I visited Tolmezzo and Bollate prisons. Tolmezzo is a mainly high security prison near the Slovenian border that also houses those who have been convicted or suspected of Mafia-related crimes. Bollate prison in Milan is a training prison with 1,200 prisoners. While prisons in Italy are notorious for overcrowding, I saw a prison system that still seemed to believe in the ideals of Cesare Beccaria (1738-1794): the ultimate goal of a prison sentence is to change a prisoner even in high security environments. Bollate prison had work facilities for prisoners that were comparable to those I witnessed in Norway. Prisoners seemed to be taken seriously as people and as partners in a detention track that is oriented towards a future outside prison. It was only in Italy that prisoners, not prison staff, guided me round their own prison.

Azerbaijan: Eurovision Europrisons

John Howard died in Kherson in the Ukraine on 20 January 1790 during his longest journey east. By that time his focus had shifted towards the plague, quarantine and hospitals. As it was not possible for me to go to the Ukraine and visit prisons, I travelled to Azerbaijan where I had the opportunity to visit two prisons in the Baku region. On a map of the member states of the Council of Europe, Azerbaijan is the furthest east. I saw prisons in a semi-authoritarian state with lots of oil money. The visit taught me that even good prison conditions may tell you very little about what

prisons are used for. Without a doubt, there are prisons and prison conditions in Azerbaijan that meet all the standards. But prison conditions can also be used as an instrument in international politics to achieve respectability (to the West and their monitoring bodies like the Committee for the Prevention of Torture). This may be best summed up by two things I witnessed: as we approach, a warder clears our way with a wave of his arm. Hundreds of inmates stand up, stop talking and remove their caps. I have never seen such a reaction. In several places of the new remand prison in Baku a little sign is hanging which proclaims in interesting English: *TORTURE NOT TO*. Now who would be the intended audience of that?

Azerbaijan taught me a lot about what independent monitors do and (do not) see.

Findings

The prison triad: Locking them up, locking them away and locking them in

A prison can perform many different functions, even simultaneously. During my tours of prisons in the various European countries I noted several of those functions at work, in many combinations and with varying emphasis. I also saw prisons that had other functions, ones rarely a feature of traditional penal theories. I dubbed the prisons of Azerbaijan “Eurovision Europrisons” out of a desire to highlight the public relations role they serve and the way in which the state invokes them in international relations. Prisons, and the degree to which they are invested in, can also have the function of creating a desired image. I could also have called the Azeri prisons that I saw “Potemkin prisons”, with a nod to that nobleman, the founder of Kherson and a great aficionado of Howard. Just as Potemkin became a byword in Russia for window-dressing after he created entire fake villages and dolled up real villages to impress Catherine the Great on her visit to the Crimea in 1787, so today’s Azeri policymakers seem to have decided to make the prison system part of their charm offensive and caviar diplomacy towards the West. I see a real challenge here for monitoring bodies (and researchers trying to measure prison performance (Liebling, 2004)) whose focus mainly lies on collecting information about how prisons perform in relation to certain standards. This information alone does not tell very much about what prisons are used for in a specific context. A good prison performance in these terms only indicates that prisons function in accordance with certain formal standards. What its function is in a given context and how and why it is used for punishment remains largely hidden. Dostoyevsky was wrong. The degree of civilization in a society cannot be judged by just looking to what happens in prisons.

In the other five countries I visited, I found a tension between two functions: incarcerating people for the good of society and attempting to change inmates so that they can come back into society and function more acceptably than before.

In Britain and France, the balance seems to have tilted strongly towards the protection of the public. These are countries that lock people up largely to make society safer, and since incarceration is a punishment, it is not felt untoward in that view if it is a rather miserable experience. It is probably not by chance that I found the worst conditions of detention in those two countries. I shall not forget the sight or the smell of the parloir at Fresnes in a hurry. Obviously, punishment is not the sole function of prison even in France or Britain, and they certainly are countries that express the ambition of prisons as a place for rehabilitation. Yet on the basis of what I have seen and read, I conclude that there is still much to be done before that aim can be achieved and in these times of austerity, it is an even more distant prospect.

In the Netherlands, I found more of an equilibrium, although my experiences of Dutch prisons did not perhaps differ substantially from what I saw in Britain or France in this regard. Security is definitely a dominant theme in the Netherlands as well and prison life is largely organised around that function. Efforts at rehabilitation very much are made, but the Dutch prison system strikes me as being pretty picky about which prisoners get to benefit. Like the British, the Dutch are sticklers for the individual's responsibility to reform. The prisoner in such a model is rewarded for effort and initiative with better conditions of detention and a better-elaborated support framework for the process of rehabilitation. And, in a sense, that system works: those who do manage to get on board the academically-informed prison programmes really can leave prison "better". The flip side is that those who cannot or will not dance to that tune, the niet-kunners in Dutch, risk missing out in such a system, with very real consequences for them, namely, staying behind bars because they are regarded as posing a continuing public hazard. The greater the numbers of refuseniks, the choosier the rehabilitation programmes become and the more lop-sided the penal system ends up being.

I found both Norway and Italy to be countries that have not merely enacted rehabilitation as a legal aim of incarceration, there are plenty of other countries that have done that paper exercise, but have robustly implemented this objective within the prisons. Italy was certainly a surprise to me. Before my trip there, I had been familiar with its prison system largely in terms of the overcrowding and frequently abominable conditions. Besides, I had been under the impression that the national rhetoric in that country left little scope for investment in prisons or prisoners. Yet I found the spirit of Beccaria was still felt in Italian prisons, and even in the highest-security facility I saw, there was a pronounced focus on preparing prisoners for their return to society. The well-equipped and pleasing workshops, the co-operative production model and the humane, open atmosphere of the Milan prison demonstrated that rehabilitation is more than a rhetorical or legal nicety there. It is evident that Italy, owing to its historical and political legacy, has never been so taken by the discourse of security that affects many other European countries. If the waters of rehabilitation ran dry elsewhere as the 1960s drew to an end, they still run clear and fresh in Italian prisons. The reality of rehabilitation efforts, however, can be troubling to observe. There are never many resources available, and besides, so much of the effort turns out to be fruitless. Rehabilitation turns out to be nothing less than impossible with some prisoners. What are the future prospects of low-ranking Mafioso prisoners who sit singing Neapolitan ballads far from home in the foothills of the Alps?

When it comes to rehabilitation, the Norwegian penal system has perhaps the noblest pedigree of them all. Norwegian society has a long tradition of working for the rehabilitation of wrongdoers, and certainly does not lack the resources to make a decent stab at it either. So Norwegian prisons are certainly role models. I know of nowhere where more attention is paid to preparing inmates for their return to society than Norway. But even there, I see ripples on the surface which hint that society and the penal system are not immune to developments being seen elsewhere. Even in Norwegian society, it seems the golden age of equality is over, as a result of which we see a range of problems rearing their heads in the domain of rehabilitation. What to do with the growing group of foreigner nationals who have no place in Norwegian society but who nevertheless end up in its prisons? What kind of return should these people be prepared for, seeing that they are likely to be kicked out of the country as soon as their sentence is up? As long as Norwegian prisons can busy themselves preparing prisoners for a return to Norwegian society, everything is just fine. But what does return to society mean in this age of increasingly multicultural societies and intensifying globalisation? And is that not causing major inequalities between the group of prisoners regarded as worth working with and those who are written off as not worth the investment because the country will gain no benefit from them after the prison sentence has expired?

These are questions that are now confronting even Norway, and to which there are no obvious answers. They are also causing a shift in the functions of prisons. Norway is certainly not a country with a prison system exclusively geared towards rehabilitation. There is plenty of punishment being doled out too: sentences measured in days, which can hardly be expected to have a rehabilitating effect, are still frequently imposed and actually served. Besides, foreign nationals tend to serve the majority of their sentence (even of longer sentences) before being deported.

For me, equality, or the absence thereof, is a key indicator of what one can expect of a given prison system. In social contexts where some form of equality is a totem, or where there are paradigms of mutual respect and consensus-based politics, prisons seem to have a much easier time of it acquiring a rehabilitating function. In such countries, a lawbreaker is not automatically locked away (or at least not further excluded from the mainstream than he already was), but is temporarily locked up pending his resumption at some future time of a role in society. In societies where there is a substantial degree of inequality, on the other hand, prisons can far more readily become warehouses for undesirables seen by the dominant social groups as a threat. In such social contexts, it is much harder to construct genuine rehabilitation programmes, because those who are in prison are no longer regarded as being part of society, if they ever were. These countries' prisons lock people up and lock them away. Very often, this inequality has seeped into the very prisons,

so that a distinction is maintained between those prisoners who deserve to be rehabilitated (and who justify that expense) and the rest of the convict crowd.

The uses to which prisons are put has much to do with the triad of locking people up, locking them away and locking them in. This third concept, which is to say the policy of managing wrongdoers in the community, is the hardest to get right and there is hardly a country in the world that does not have major challenges when attempting such an approach. It is far easier to lock up people who offend and lock them away for reasons of public safety than it is to lock them in and to try to work out what should be done with them after their sentence.

My travels with John Howard have left me fully persuaded that the understanding of equality and inequality is of crucial significance to understanding of which functions prisons can have in a given context. If you ask me, Piketty's *Capital in the Twenty-First Century* (2013) and other colleagues who do epidemiological research (Lappi-Seppälä, 2011; Wilkinson and Pickett, 2009) should be required reading for criminologists. The equality/inequality debate and the question of inclusion also hark back to the historical roots of prison. Prisons have always been catch-alls for people who must be excluded temporarily or permanently from society. Those who did not fit for whatever reason, or who were dangerous, were locked up without many prospects. Frequently, this exclusion was the mere precursor to a subsequent punishment that dimmed their prospects even further: transportation to an overseas colony, a public corporal punishment that left its mark on the body for life, or, the ultimate exclusion, the death penalty.

It was precisely to mitigate the element of exclusion suffered under the existing judicial penalties that custodial sentences were developed. In the context of the early-mediaeval Italian cities, thinkers racked their brains to devise an instrument that could correct dangerous and annoying people without necessarily making them social outcasts once and for all. Incarceration was part of the punishment, but no less was the subsequent return to the society that had been offended by the undesirable behaviour (Geltner, 2008). In the French context, too, imprisonment became a kind of foreign body in the arsenal of pre-existing punishments. The *lettres de cachet*⁴ were, of course, tools for locking people up without the trouble of going through the usual legal channels, and as such were inherently susceptible to capricious abuse. However, they were also, and perhaps even primarily, creatures born of the need to respond to new social trends which had translated completely outlawing a person into a less desirable goal than previously and perhaps even

4 These were missives or letters signed by the King of France, countersigned by one of his ministers, and closed with the royal seal, or cachet. They contained orders directly from the King, often to enforce arbitrary actions and judgments that could not be appealed.

an impossible one. Lettres de cachet enabled capital punishments to be stayed or commuted into temporary removals from society with a view to correction and reinstatement into the mainstream.

Wherever prisons lack a genuine determination to correct and to “lock in” the ex-prisoner after his time locked up, they will inevitably be largely instruments of exclusion. And that default condition of being locked away will always be one with few positive prospects and a self-perpetuating state of affairs. It will always end up with be the same “sort”, the same people even, who are locked up and locked away. Some countries, such as Norway and Britain, are getting tough about the physical exclusion of some foreign national prisoners, by declaring them *persona non grata* and expelling them. The time is long gone that the problems of incarceration and criminality could be solved by deporting the undesirables overseas, but many countries are still wrestling with a better solution to replace it. What can be done with these transient people whose only connection to the country in which they are imprisoned is the crime they committed while passing through? What kind of inclusion or rehabilitation can be on offer for them, and how and where should this inclusion be brought about? For me, these are the key challenges that will face the prisons of tomorrow which will want to do more than incarcerate people. And my travels have convinced me that this is the very matter that is causing today’s European prisons the most headaches.

Capacity

Although it was not the specific aim of my research or my travels, I kept finding myself embroiled in discussions about prison capacity. I visited countries that had too many prisoners (the UK stands out here) and countries that appear not to have enough prisons (France, England and Wales and Italy). I also visited countries that have more capacity in their prisons than is utilised (the Netherlands and, if we are to believe the official statistics, Azerbaijan). Or should one perhaps say that they have too few prisoners? The difference in expressing it is largely semantic. In countries that are keen on locking people up, there are naturally many prisoners and the chances are that there will not be enough prison places for them. So is the cause of the shortage that there are too few places provided or that excessive numbers of custodial sentences are being imposed?

Statistics on the incarceration rate, expressed per 100,000 inhabitants, allow us to compare different countries’ predilection for incarceration. When we calculate these, we find truly major differences. The official statistics produce a ratio of 210 for Azerbaijan, 149 for England and Wales, 102 in France, 88 in Italy and 75 in both Norway and the Netherlands. There is some shuffling of places in the penological league table when looking at the number of prisoners in a country and the prison capacity available: France

has an occupancy rate of 118.3%, England and Wales 112%, Italy 110.4%, Norway 94.1%, Azerbaijan 85.5% and the Netherlands 77% (International Centre for Prison Studies, 2013a, 2013b, 2014a, 2014b, 2014c, 2014d).

Why the differences between these countries? And why the scale of them? These turn out to be very tricky questions and we do not know the exact answers. Experts are of course not completely ignorant on the matter, even if our knowledge is not much more than knowing which proposed explanations cannot be the right ones. For instance, the intuitive and plausible suggestion that the countries that lock up more people and/or have too few prisons are countries with higher rates of crime is not true however it is spun. Prison populations more often do not correlate with a country's crime statistics than they do correlate. So what is the cause? It is likely that the response to crime, and policy on criminal behaviour, is a much more important factor than a country's criminality as such. The degree of preparedness a nation has to make prison the answer to crime, and the lengthening of custodial sentences (by tightening up the early release regulations) appear to be much better indicators of prison population and overcrowding levels.

That said, the jigsaw has certainly not been pieced together yet. I remain surprised by how few countries have managed to get a grip on prison capacity management as a component of penal policy. Surely, if capacity is largely a function of political choices, it must be possible to anticipate or react to changing numbers? In practice, it appears to be a very tall order. Measures to combat prison overcrowding seldom achieve the desired effect, and predictions of future capacity requirements are not just seldom accurate; they are typically highly unreliable. For me, the situation that the Netherlands found itself in (or was it the result of a choice the country made?) is an illustration of the inability to get to the bottom of how prison capacity works and to tackle the issues involved. In the 1970s, the Dutch had Western Europe's lowest incarceration rate (at just 18 inmates per 100,000 inhabitants); the prison population quadrupled between 1985 and 2005 and then plummeted again. While many (retrospective) explanations have been proffered for this huge yo-yo effect, it appears that the policymakers were taken by surprise at every turn. They were taken unawares by the sudden flip in capacity, and above all they were unprepared for the intensity and wide ramifications of those fluctuations. Anyone who had stood up in the Netherlands ten years ago and said that by now prisons would be closing on a large scale and their governors would be all but begging for more prisoners would have been written off as a madman. Yet that is the situation the country now finds itself in.

In recent years there has been no shortage of researchers seeking to understand these processes better and to come up with evidence-based explanations. We can

learn much from their efforts, and there are certainly parallels to be drawn between prison capacity and my research question of what prisons are for. When society polarises and prisons are made an instrument to lock those who offend away, the chance is very great that the prison population will rise accordingly (Lappi-Seppälä, 2012). In such conditions, prisons become bottomless pits to be stuffed continually with the same sort of people (often the very same people) again and again. There is more to it than that, however. Selectiveness as to how prisons are filled up (and how they are emptied) can sometimes play odd tricks on capacity statistics, even in times where the predominant policy is one of locking people away. Prisons are often hybrid systems displaying both sets of characteristics: those of locking people up and of locking them away. Indeed, inequality can arise within a prison as a result of such a twin-track policy: it can give rise to some groups leaving prison easily and quite well-prepared for life back on the outside, while other groups languish inside for many years and without many prospects (Boone, 2012). These are all pieces of the greater puzzle, which is how to gain a sound understanding of how prison capacity works.

Conclusion

John Howard was a fascinating person and his curiosity, resolve and commitment are a lasting source of inspiration for those who are interested in prisons. There is a strong argument to make for the added value of carceral tours in the way he pioneered them. Indeed, there are ethical and epistemological issues that deserve attention and limitations regarding the information such visits can provide. But there are things to learn through prison visits that other sources cannot reveal.

When results of Howard's visits are compared to those of a contemporary studies using prison visits as a source of information, it becomes apparent that a carceral tour approach can lead to very different outcomes. And this is not a consequence of essential methodological differences or limitations inherent to the prison visit design. What one can learn from carceral tours is highly dependent on the lens through which one is looking at prisons. If it is the intention to gather information about how prisons perform in relation to specific standards, which is essence of all sorts of inspection and monitoring exercises, results of such an exercise can only be used to make statements in that respect. It does tell very little about the role and function of prison or about the level of development or democracy. Indeed, while prison visits might be scripted to avoid that visitors see the less exemplary spots and practices in prison, carceral tours run the risk to be framed in a more general way. Prisons are just instruments of a criminal justice system. They can be adjusted to international standards without changing anything about the system and the purposes for which it is used. Prisons are always some kind of façade. To me, that is where the real challenge lies for those who really want to follow the footsteps of John Howard.

References

- Abbott, J. (1981). *In the Belly of the Beast*. New York: Vintage Books.
- Aikin, J. (1814). *A view of the life, travels and philanthropic labours of the late John Howard, Esquire, LL.D F.R.S.* New York: David Huntington.
- Boone, M. (2012). *Eigen boeven eerst. Insluited en uitsluiting in de sanctietoepassing*. Den Haag: Eleven international publishing.
- Brown, J. B. (1823). *Memoirs of the public and private life of John Howard, the philanthropist* (2nd ed.). London: Thomas and George Underwood.
- Dey, E. (2009). Prison tours as a research tool in the Golden Gulag. *Journal of prisoners on prisons*(18), 119-125.
- Dixon, H. (1852). *John Howard and the prison-world of Europe*. Webster, Massachusetts: Frederick Charlton.
- Downes, D. (1988). *Contrasts in tolerance: post-war penal policy in the Netherlands and England and Wales*. Oxford: Clarendon.
- England, R. W. (1976). The cluster potato: John Howard's achievement in scientific farming. *The Agricultural History Review*, 24(2), 144-148.
- England, R. W. (1993). Who wrote John Howard's text? The State of the Prisons as a Dissenting Enterprise. *British Journal of Criminology*, 33(2), 203-214.
- Field, J. (1850). *The life of John Howard; with comments on his character and philanthropic labours*. London: Longman, Brown, Green and Longmans.
- Geltner, G. (2008). *The medieval prison*. Princeton: Princeton University Press.
- Howard, J. (1764). An account of the degree of cold observed in Bedfordshire. *Philosophical Transactions*, 54, 118.
- Howard, J. (1767). Extract of a letter from John Howard, Esq; F.R.S. to William Watson, M. D. F. R. giving some observations on the heat of the waters at Bath. *Philosophical Transactions*, 57, 201-202.
- Howard, J. (1771). Observations on the heat of the ground on Mount Vesuvius. *Philosophical Transactions*, 61, 53-54.
- Howard, J. (1791). *An account of the principal lazarettos in Europe. With various papers relative to the plague: together with further observations on some foreign prisons and hospitals; and additional remarks on the present state of those in Great Britain and Ireland*. London: Johnson, Dilly and Cadell.
- Howard, J. (1792). *The state of the prisons in England and Wales with preliminary observations, and an account of some foreign prisons and hospitals* (4 ed.). London: Johnson, Dilly and Cadell.
- Huckelbury, C. (2009). Tour de farce. *Journal of Prisoners on Prisons*, 18, 126-128.
- International Centre for Prison Studies. (2013a). Azerbaijan. *World Prison Brief*. from <http://www.prisonstudies.org/country/azerbaijan>

- International Centre for Prison Studies. (2013b). Netherlands. *World Prison Brief*. from <http://www.prisonstudies.org/country/netherlands>
- International Centre for Prison Studies. (2014a). France. *World Prison Brief*. from <http://www.prisonstudies.org/country/france>
- International Centre for Prison Studies. (2014b). Italy. *World Prison Brief*. from <http://www.prisonstudies.org/country/italy>
- International Centre for Prison Studies. (2014c). Norway. *World Prison Brief*. from <http://www.prisonstudies.org/country/norway>
- International Centre for Prison Studies. (2014d). United Kingdom: England and Wales. *World Prison Brief*. from <http://www.prisonstudies.org/country/united-kingdom-england-wales>
- Lappi-Seppälä, T. (2011). Explaining imprisonment in Europe. *European Journal of Criminology*, 8(4), 303-328.
- Lappi-Seppälä, T. (2012). Penal policies in the Nordic countries 1960-2010. *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 13(1), 85-111.
- Liebling, A. (2004). *Prisons and their moral performance*. Oxford: Oxford University Press.
- Minogue, C. (2009). The engaged specific intellectual: resisting unethical prison tourism and the hubries of objectifying modality of the universal intellectual. *Journal of prisoners on prisons*, 18, 129-142.
- Nagelsen, S., and Huckelbury, C. (2009). The prisoner's role in ethnographic examinations of the carceral state. *Journal of prisoners on prisons*, 18, 111-118.
- NOMS (2013) Prison Service Instruction: Incentives and earned privileges, 30/2013, <https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2013>, accessed 27/06/16
- Pakes, F. (2015). Howard, Pratt and Beyond: Assessing the value of carceral tours as a comparative method. *The Howard Journal of Criminal Justice*, 54(3), 265-276.
- Piché, J., and Walby, K. (2009). Dialogue on the status of prison ethnography and carceral tours: An introduction. *Journal of prisoners on prisons*(18), 88-90.
- Piché, J., and Walby, K. (2010). *Problematizing carceral tours*. *British Journal of Criminology*, 50(3), 570-581.
- Piché, J., and Walby, K. (2012). Carceral tours and the need for reflexivity: a response to Wilson, Spina and Canaan. *The Howard Journal of Criminal Justice*, 51(4), 411-418.
- Piketty, T. (2013). *Capital in the twenty-first century*. Belknap Press
- Pratt, J. (2008a). Scandinavian exceptionalism in an era of penal excess. Part I: The nature and roots of Scandinavian exceptionalism. *British Journal of Criminology*, 48(2), 119-137.

- Pratt, J. (2008b). Scandinavian exceptionalism in an era of penal excess. Part II: Does Scandinavian exceptionalism have a future? *British Journal of Criminology*, 48(3), 275-292.
- Shalev, S. (2013). *Supermax. Controlling risk through solitary confinement*. Abingdon: Routledge.
- Vander Beken, T. (2015). Travels with John: the function of prisons in Europe. *Independent Monitor* (115), 10-12.
- Vander Beken, T. (2016). The role of prison in Europe. *Travelling in the footsteps of John Howard*. Basingstoke: Palgrave Macmillan.
- Wacquant, L. (2002). The curious eclipse of prison ethnography in the age of mass incarceration. *Ethnography*, 3(4), 371-397.
- West, T. (2011). *The curious Mr. Howard. Legendary prison reformer*. Hook: Waterside Press.
- Wilkinson, R., and Pickett, K. (2009). *The Spirit Level: Why Greater Equality Makes Societies Stronger*. London: Allen Lane.
- Wilson, D., Spina, R., and Canaan, J. E. (2011). In praise of the carceral tour: learning from the Grendon experience. *The Howard Journal of Criminal Justice*, 50(4), 345-355.

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About the Howard League for Penal Reform

The Howard League for Penal Reform is a national charity working for less crime, safer communities and fewer people in prison. It is the oldest penal reform charity in the UK. It was established in 1866 and is named after John Howard, one of the first prison reformers.

We work with parliament and the media, with criminal justice professionals, students and members of the public, influencing debate and forcing through meaningful change to create safer communities.

We campaign on a wide range of issues including short term prison sentences, real work in prison, community sentences and youth justice.

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Please note

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

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