# **Review Article**

# THE SOCIAL ORDER OF THE UNDERWORLD: WHAT GOES ON IN US PRISONS SHOULD WORRY THE UK

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David Skarbek, *The Social Order of the Underworld: How Prison Gangs Govern the American Penal System.* New York: Oxford University Press (2014), 240pp. ISBN: 978-0-19-932849-9 (hb, £64.00); 978-0-19-932850-5 (pb, £18.99).

If you want to reduce crime, don't put so many people in prison, certainly not in the USA. David Skarbek, a lecturer in political economy at King's College London, has written the most perceptive book about the US prison regime. We always knew that the numbers of people in prison per 100,000 population were disproportionately high in the USA, but the number has soared in the last few decades. There are now more people in prison in the USA than anywhere else, some 2 million at any time, which is higher than in China even though China has a billion more people.

In his article for the October 2014 issue of *Economic Affairs*, where he is reviewing my own book *Prisonomics* (Pryce 2013), Skarbek (2014, p. 412) points out that the figures translate into 707 per 100,000 population, having gone up from 148 per 100,000 in the early 1980s. This has been caused mainly by a tighter and more punitive regime, with mandatory and minimum sentencing requirements and more frequent prosecutions. In Europe the average stands at around 140 (Skarbek 2014, p. 412), brought up considerably by the United Kingdom, which is at the high end of the scale and which has also seen a doubling of the prison population for many similar reasons to those in the USA. A number of European countries, on the other hand, are at below 100, with some even seeing a decline through more use of community sentencing.

But while the USA is a real outlier, if you are the wrong colour or ethnicity the situation is even worse. Skarbek cites evidence for 2008 which suggested that one in every 31 Americans was either in prison, on probation or on parole, with the numbers heavily skewed towards ethnic minorities. The incarceration rate for young black men was one in every nine and for young Latinos one in every 14.

So if you are young and belong to a minority ethnic group in the USA, the likelihood of ending up in jail is rather high. The male prison population was by 2010 nearly eight times higher than it had been in the 1970s. What is worse, if unlucky enough to be sent to American prisons you find yourself in what Skarbek calls 'a jungle' in his 2014 book *The Social Order of the Underworld* on US prison gangs. The explosion of the prison population has brought with it many changes. In California alone, where much of the data for Skarbek's book is sourced, the

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annual end-year number of people in prison between 1851 and 1951 averaged some 3,400. By 2007 that number had risen to 170,000 (pp. 34–5). That is a massive increase, not justified by the rise in California's population. Though there has been a small decline since, this has still left the prisons overcrowded and with a new intake that has changed the social order of prisons and resulted in the destruction of what were accepted norms of behaviour.

As the numbers convicted expanded, many more – often younger – people entered overcrowded prisons without prior knowledge of what acceptable behaviour is for this environment. Skarbek refers to this as the 'convict code', subconsciously known by all and which had hitherto allowed some sort of harmony to prevail. All that disappeared, making the job of policing inmates – and surviving for those incarcerated – that much more difficult. As Skarbek explains, the rise in numbers coincided with many more violent offenders entering the US prison system, with the ratio of violent to non-violent offenders now almost two to one. The ethnic mix has also changed, from predominantly white to predominately non-white. This ethnic mix leads, according to Skarbek, to fewer common norms, and has contributed to increased conflict and hostility between groups. Race seems now to be dominating divisions within US prisons. Officers in prison are often themselves either lacking experience or are sent to serve in prisons from sheriffs' departments where they are deemed to have been too incompetent or corrupt to continue to deal with the public. In prison, anything goes. The officers either are themselves taking part in the violence and disregarding prisoner' rights, or are unable or unwilling to step in and stop the brutality. A guard in one prison tells Skarbek: 'Most of us have wives and kids or grandkids. You tell me: Are you going to risk your life by stepping in front of a knife when you have one lousy piece of shit trying to kill another lousy piece of shit?' (p. 21).

Prisons in the USA, according to Skarbek, have become violent places where inmates are left without acceptable safeguards. So, as institutional protection disappears, what evolve are dangerous self-governance mechanisms to fill the void. As convicts enter prison they soon discover that there isn't anywhere to turn to get protection and survive their imprisonment except by joining prison gangs. The result is that gangs in US prisons have now replaced a 'community responsibility system', as Skarbek calls it, with their own norms. He outlines how each gang, 'has procedures for assessing the quality of a potential member and mechanisms for monitoring his actions. This helps the gang demand good behavior from its members and protects its reputation. This system provides the foundation of self-governance by prison gangs in the society of captives' (p. 77). And captives they certainly are. In his examples Skarbek vividly highlights the control that violent inmates exercise over others – and as he says: 'Dangerous men occupy the state's prisons and jails. Other inmates must find a way to survive while living among them' (p. 45).

## How does the UK compare?

Overcrowding is increasing in the UK, too. And prison officers who lose control, as their numbers are being cut to meet fiscal consolidation targets, are reacting by locking people up for 23 hours a day, denying prisoners education and other interactions that would assist their rehabilitation. This hardly helps improve prisoners' state of mind and instead leads to increased anti-social behaviour in prisons themselves. Assaults on other prisoners and on guards are increasing, encouraging the authorities to toughen up further. In the UK as in the USA, there

has been a rise in violent offenders being sent to prison. On race, in 2010/11 in the West Midlands being black resulted in your being 28 times more likely to be stopped and searched than if you were white, according to research by the Equality and Human Rights Commission (Dodd 2012). Religion has also started to matter, with a large percentage of prisoners either already Muslims when convicted or converting to Islam while in prison. Their number has more than doubled since 2002 to some 12,000 and they account for some 14 per cent of the prison population in England and Wales as against just under 5 per cent for the population as a whole (Morris 2014). In some prisons they represent almost a third of the overall prison numbers. At the same time the general characteristics of the group that commits crimes is skewed towards the underprivileged and disadvantaged. For example, some 53 per cent of women and 27 per cent of men in prison in England and Wales have been physically, sexually or emotionally abused as children (Williams, Papadopoulou and Booth 2012, p. 9). Many have mental health problems: some 40 per cent of women in prison have received treatment in the year before entering prison. Half of the women in prison had been subjected to domestic violence, and among men some 40 per cent had lived in a home where domestic violence was present. Across the prison population as a whole some 47 per cent of prisoners have no qualifications whatsoever. There is an astonishingly large number who can't read or write, and the chances of having had a job before going to prison are very low – some 81 per cent of women in prison and 67 per cent of men were unemployed in the four weeks before being sent to custody (Prison Reform Trust 2014, p. 31).

#### Hidden economic costs of incarceration

But even more importantly, we should be thinking of the unintended consequences of the current prison policy, a must in any cost–benefit analysis. Only 5 per cent of children of imprisoned mothers are able to stay in their homes. As I pointed out in *Prisonomics* (Pryce 2013, p. 248), an estimated 17,700 children are separated each year from their mothers who are imprisoned (Prison Reform Trust 2011, p. 3). Many are taken into care. The mean cost of keeping a child in care in the UK in 2010/11 was £789 per week or just over £41,000 a year (Curtis 2011, pp. 77–8). From that point of view alone it is hard to justify the cost when the reoffending rate in the year following release from custody among adults remains stubbornly high at around 45–49 per cent, and for those who serve less than 12 months in prison around 57 per cent (Ministry of Justice 2014a, p. 7) and is costing the economy some £9.5bn–£13bn a year (National Audit Office 2010). If this was the National Health Service and we sent people back for the same operation again and again, there would be a public outcry.

Even more worryingly, by putting people in prison at the rate we do, we exacerbate inter-generational problems. Evidence in England and Wales suggests that it is three times more likely that children with a parent in prison will suffer from mental health problems or engage in anti-social behaviour, which could include crime, than their peers (Lewis, Bates and Murray 2008). And the most extraordinary statistic in my view is that, if you focus just on boys, studies show that almost two-thirds of those who have a parent in prison will end up committing some kind of crime themselves (Lewis, Bates and Murray 2008; Murray and Farington 2005). It is not surprising therefore that some 31 per cent of women prisoners and 24 per cent of men report having been in care when they were children, against just 2 per cent for the population as a whole (Williams, Papadopoulou and Booth 2012, p. 8).

Prison is also more expensive than alternative measures. In 2009/10 it cost on average some £56,415 a year to keep a woman in prison (Hansard 2011; Pryce 2013, p. 247). By contrast, simple community orders can cost as little as £1,500 but even more intensive community orders which the police and the courts would be confident in using as an alternative could cost approximately £10,000–£15,000 – a quarter of the cost of imprisonment. A general shift away from incarceration would have many wider social and economic benefits – as well as resulting in much lower reoffending rates. In the end you would have just what you want, especially in straitened financial circumstances for the government: fewer victims, lower costs of crime to society and also less cost to the public purse in terms of police time, court procedures, and so on. As Professor David Wilson, formerly a prison governor himself, has said, 'it is perfectly possible to have less crime, safer communities and fewer people in prison' (Wilson 2014, p. 202). But it is hard to make the public understand this proposition.

# What does prison ever do for us?

But does putting people in prison achieve any objectives? David Skarbek cites evidence suggesting that there is a negative correlation between the rate at which people are imprisoned and the crime rate (Levitt 2004) – in other words, that crime falls as a result of incarceration. But he acknowledges that this happens only up to a point. The first priority is to put away the more frequent and dangerous offenders. They obviously can't commit crimes, at least against the general public, while they are in prison. But beyond a certain point there is a marginal decline in the usefulness of incarceration. In his *Economic Affairs* article Skarbek cites one study which suggests that the relationship turns positive at some 325 per 100,000 residents in the USA, in other words at a level of imprisonment at around half where we are today. What this means is that at that level the marginal cost of putting people in prison exceeds the marginal benefit in terms of reducing crime – so, as Skarbek puts it, 'More prison use leads to more crime' (2014, p. 413).

Arguably, even that is too high – though where the right rate is probably differs from country to country. Interestingly, where family ties are important, youth crime tends to be very low. But just from reading in The Social Order of the Underworld Skarbek's extraordinarily harrowing detail of the conditions in Texas jails, it seems that prison can encourage rather than reduce crime. First of all, many crimes committed in prison are not counted in the overall crime statistics. And the more people end up in overcrowded prisons, as is the case in the UK now, the strains on the system are such that they result in more antisocial and violent behaviour in prisons: this can continue outside once prisoners are released. David Skarbek argues that big prisons tend to exacerbate this tension and make people feel even more alienated and unprotected. And yet this is where the UK regime is going, increasingly emulating the USA. There are plans for mega-prisons to replace smaller ones which are closing. The projections now are for a further 20 per cent increase in the prison population by 2020 as more current and historic sex abuse offenders are finally coming to court and being convicted (some police forces in the UK routinely used to classify those offences as 'non-crimes'). The number of criminals in jail could rocket to just under 100,000 by the end of the decade, although the most likely number was just over 90,000 (Ministry of Justice 2014b). The figures are far higher than a set issued in 2013 which predicted a lower jail population. Of course, there are indeed people who deserve to be in prison as they are a threat to society. There are currently some 10,000 violent

men in prison in the UK who are there for good reason. And some 100 violent women. But even they can be rehabilitated and will be coming out at some stage. Arguably the strains on the system could well make that rehabilitation much harder to achieve – not only for them but also for many other prisoners who desperately need to rebuild their lives when they come out. Without rehabilitation, the reoffending rate will stay stubbornly high.

#### Crime has fallen

In his recent book, David Wilson (2014) reminds us that the modern idea of being sent to prison as a form of punishment is a nineteenth-century invention. For much of the preceding period, those kept behind bars at any time were on their way either to execution or to transportation to the colonies. But even after the introduction of lengthy prison terms, the numbers were relatively small. It is worth remembering that as recently as the beginning of World War II the prison population in the UK was fairly small: in 1939 it was under 11,086. This number was among the lowest in Europe. At 85,755 as of week ending 12 December 2014 (Howard League for Penal Reform 2014) it is among the highest. But we would probably accept it if it meant (a) that crime would be lower as a result and (b) that people came back rehabilitated. There is scant evidence for either. We have doubled the number of people in prison since the mid-1990s even though reported crime has more than halved during that period. Of course, this is reported crime, and this tends to be an underestimate of total crime because people don't believe the police will do anything about it, or because it is corporate crime which is usually dealt with internally, or because it is just not properly registered by the police, who believe they can't do much about it or fail to take it seriously. But what is really interesting is that the incidence of crime reported in the annual Crime Survey for England and Wales (which records a higher number of crimes than police figures because it includes unreported crimes as well) has also been collapsing, and by mid-2014 had more than halved from the levels it had reached at its peak in 1994 (Office for National Statistics 2014).

Researchers find little correlation between crime and incarceration across countries. Crime has fallen worldwide. Data for the G7 nations show that between 1995 and 2010, robberies were 20 percentage points below what they were in 1995, homicides 30 points below and vehicle theft some 60 points below (*The Economist* 2013). Of course, there has recently been a rise in internet and cyber-crime and in people arrested and convicted for sexual offences and for domestic abuse, which have all become much more unacceptable. Also, given the recent period of relatively high unemployment, pickpocketing and shoplifting have increased. But the trend for crimes overall is down.

An important reason for this trend is technology, as Nick Ross (2013) explains in his book *Crime*. It is much more difficult to steal cars these days, for example – I am told it used to be very simple. I can vouch for that as I frequently had cars stolen as I was going through my twenties and thirties – but this is now rare, except for the very expensive models. Computerised technology and tracking and immobilising devices have all helped. Car radios, a main attraction to thieves in the past, are now useless on their own outside the computer-controlled car. A good example is the 93 per cent drop in car thefts in New York since 1993 (*The Economist* 2013). Houses are harder to enter due to locks and alarms requested by insurance companies, computerised cashier checkouts in shops limit the ability of operators to cheat. Also, we are

ageing as a society: the peak ages for committing a crime in the UK are between 14 and 25; after 25 there is a steep fall in criminal activity 'as people take on new roles such as wage-earner, spouse, parent etc.' We are getting richer, even though it may not quite feel this way. So there is less of an economic incentive to steal, and you have more to lose if you get caught.

What other factors are there? It was long felt that finding employment after incarceration would reduce reoffending, but this was difficult to prove except in very small controlled experiments. But a study which tracked the employment status of offenders (it linked data from across the criminal justice system with data from Her Majesty's Revenue and Customs and the Department of Work and Pensions) has shown that one-year reoffending rates were reduced for those who found employment in the year following their release from custody (Ministry of Justice 2013a). Of course, better education also improves the chances of finding employment. Steve Machin, at the London School of Economics, has been looking at the positive impact of education at reducing crimes, linking crime data from the Offenders Index database to education data from the annual Office for National Statistics General Household Survey. The results were very interesting: for every 10 per cent increase in the average school leaving age, convictions drop by 2.1 per cent, and each percentage drop in the proportion of people with no qualifications sees a substantial longer-term benefit to the economy (Machin, Marie and Vujic 2011).

# The economic 'rationale' for committing a crime

In a panel which we shared at the Festival of Economics put together by Diane Coyle in Bristol in November 2014, Machin talked about the economic theory of crime, which suggests that people contemplating committing a crime undertake their own cost-benefit analysis in each case; they weigh the pros and cons of committing a crime - ease and reward - against the probability of being caught. Many of those crimes are of course 'opportunistic'; the chance just presents itself and offers little time to think and plan. For most 'crimes', therefore, people probably have a very high discount rate and see the benefit of, say, stealing something now as being much greater than the downside of possibly getting caught in the future. They also calculate that the likelihood of getting caught is very small. And they are right. Only some three out of a hundred offences apparently make it to court. But what does reduce crime, and in many cases has already been seen to have achieved this, is an increased likelihood of being caught and receiving punishment, irrespective of its harshness (Piquero and Paternoster 1998). Better and targeted policing and better methods, such as increased use of surveillance equipment, can help in this. But of course people considering committing the crime must know about it and believe the chances of being caught are high if they are to choose the option of not committing it.

What this suggests, and what academic research amply demonstrates, is that the mere threat of prison itself or longer sentences do not act as a deterrent. Yet we have progressively lengthened sentences, extended the number of offences that merit a custodial sentence and filled our prisons to capacity and more, both in the UK and in the USA, as David Skarbek demonstrates. The result has been an enormous cost to individuals, the state, society in general and also the next generation, whose parents have gone to prison. And the more people there are in prison, the harder it is to devote time and resources to rehabilitation when most people

there are just struggling to survive. The incidence of recidivism remains high, and it seems that people are more likely to reoffend if they get caught up in the criminal justice system than if they don't.

## The impact of imprisonment: the evidence

'Labelling theory' suggests that because of their past behaviour people coming out of prison are prevented from re-entering many areas of activity, particularly employment. They find themselves deeply stigmatised as a result of being always seen just as 'offenders'. According to Howard Becker (1966), this results in people's view of themselves altering, so being 'bad' or a 'criminal' becomes a self-fulfilling prophesy. They end up feeling ashamed, increasingly excluded from society with heightened mental problems, and thus more likely to reoffend. Or else they feel excluded and aggrieved (the 'defiance theory') and are therefore more likely to reoffend as they feel victimised. The stay in prison itself does not help. In modern Britain we certainly are moving to the view that having a hard time in prison (even if not as horrific as Skarbek describes in the USA) should be part of the punishment. It could be argued that separation from loved ones and loss of control, with the depression this brings, is punishment enough. Time in prison should be spent preparing the offender for reintegration with society. But the mood has changed, and we are increasingly seeing the removal of such 'privileges' as books, own clothes, televisions, days out, early release, and visits and legal aid for prisoners. That leads to greater rather than less alienation. And although in England and Wales conditions in prisons appear more civilised than in the past and in the USA at present, which Skarbek so vividly recounts, Wilson (2014, p. 205) has argued that, in truth, 'the pain of punishment has become more camouflaged, more secret; it is now almost completely hidden'.

What worries Wilson is that the state still relies on what he calls 'legitimised force, control and violence'. As he argues, the UK may have abolished the death sentence in 1965 but, as in the USA, prisons in England and Wales today remain 'death centres' – courts send socially disadvantaged people to jail who may not survive their incarceration. Suicide rates are worryingly high and have recently been going up. An Oxford University study looking at data between 2005 and 2009 in all prisons in England and Wales found that women were ten times more likely to self-harm than were men. In fact, while they represented just 5 per cent of the overall prison population, they accounted for around half of all the incidents of self-harm (Hawton et al. 2014).

Our overcrowded prisons have resulted in increased instances of assaults on other prisoners and on guards. Prisons themselves cultivate criminality. Some 36 per cent of male and 18 per cent of female prisoners who had used heroin first tried it in prison (Ministry of Justice 2013b, p. 14). Prisoners are attacked by other prisoners. Medical treatment is poor. An increasing number of older prisoners now going to jail will die there.

The criminal justice system has been an evidence-free zone for too long. The research which suggests that the fall in crime rates across most of the world has little to do with putting people in prison has been ignored by politicians. The evidence on what works and doesn't work in reducing crime and reoffending is now mounting as more data linking is possible. Perhaps things will change and economics will triumph. But don't hold your breath. Skarbek's *The Social Order of the Underworld* should serve as a terrible warning of where we may otherwise be heading.

### Note

Explanations for Patterns of Crime: Age. Available at http://www.sociology.org.uk/pblsdca.pdf (accessed 15 December 2014).

## References

- Becker, H. (1966) Outsiders: Studies in the Sociology of Defiance. London: Collier-Macmillan.
- Curtis, L. (2011) *Unit Costs of Health and Social Care 2011*. Canterbury: Personal Social Services Research Unit, University of Kent.
- Dodd, V. (2012) 'Police up to 28 Times More Likely to Stop and Search Black People Study', *Guardian* (London), 12 June.
- The Economist (2013) 'Where Have All the Burglars Gone?', 20 July.
- Hansard (2011) HC Deb 4 April, vol. 526, no. 145, col. 642W. Available at http://www.publications. parliament.uk/pa/cm201011/cmhansrd/cm110404/text/110404w0003.htm (accessed 15 December 2014).
- Hawton, K., L. Linsell, T. Adeniji, A. Sariaslan and S. Fazel (2014) 'Self-harm in Prisons in England and Wales: An Epidemiological Study of Prevalence, Risk Factors, Clustering, and Subsequent Suicide', *The Lancet* 383(9923), 1147–54.
- Howard League for Penal Reform (2014) 'Latest Prison Population Figures. Week Ending Friday 12 December 2014'. Weekly Prison Watch. Available at http://www.howardleague.org/weekly-prisonwatch/ (accessed 15 December 2015).
- Levitt, S. D. (2004) 'Understanding Why Crime fell in the 1990s: Four Factors that Explain the Decline and Six that Do Not', *Journal of Economic Perspectives* 18(1), 163–90.
- Lewis, S., S. Bates and J. Murray (2008) *Children of Prisoners Maintaining Family Ties*. London: Social Care Institute for Excellence. Available at http://www.scie.org.uk/publications/guides/guide22/files/guide22.pdf (accessed 4 December 2014).
- Machin, S., O. Marie and S. Vujic (2011) 'The Crime Reducing Effects of Education', *Economic Journal* 121(552), 463–84.
- Ministry of Justice (2013a). *Analysis of the Impact of employment on Reoffending Following Release from Custody using Propensity Score Matching*. London: Ministry of Justice. Available at https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/217412/impact-employment-reoffending.pdf (accessed 4 December 2014).
- Ministry of Justice (2013b) Gender Differentials in Substance Abuse and Mental Health Among Prisoners. London: Ministry of Justice. Available at https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/220060/gender-substance-misuse-mental-health-prisoners.pdf (accessed 4 December 2014).
- Ministry of Justice (2014a) *Proven Re-offending Statistics Quarterly Bulletin*. January to December 2012, England and Wales. London: Ministry of Justice. Available at https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/368403/proven-reoffending-jan12-dec12.pdf (accessed 15 December 2014).
- Ministry of Justice (2014b) *Prison Population Projections 2014–2020*. England and Wales. Statistics Bulletin. London: Ministry of Justice. Available at https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/380586/prison-population-projections-2014-2020.pdf (accessed 16 December 2014).
- Morris, N. (2014) 'Number of Muslims in Prison Doubles in Decade to 12,000', *The Independent* (London), 28 March.
- Murray, J. and D. Farington (2005) 'Parental Imprisonment: Effects on Boys' Antisocial Behaviour and Delinquency through the Life-Course', *Journal of Child Psychology and Psychiatry* 46, 1269–78.
- National Audit Office (2010) Managing Offenders on Short Custodial Sentences. Report by the Comptroller and Auditor General, HC 431, Session 2009–2010, 10 March. London: The Stationery Office.
- Office for National Statistics (2014) Statistical Bulletin: Crime Survey for England and Wales, Year Ending June 2014. 16 October. Available at http://www.ons.gov.uk/ons/dcp171778\_380538.pdf (accessed 15 December 2014).

- Piquero, A. and R. Paternoster (1998) 'An Application of Stafford and Warr's Reconceptualisation of Deterrence to Drinking and Driving', *Journal of Research in Crime and Delinquency* 35(1), 3–39.
- Prison Reform Trust (2011) *Reforming Women's Justice: Final Report of the Women's Justice Taskforce*. London: Prison Reform Trust. Available at http://www.prisonreformtrust.org.uk/Portals/0/Documents/Women%27s%20Justice%20Taskforce%20Report.pdf (accessed 4 December 2014).
- Prison Reform Trust (2014) Bromley Briefings Prison Factfile. Autumn 2014. Available at http://www.prisonreformtrust.org.uk/Portals/0/Documents/Bromley%20Briefings/Factfile%20Autumn%202014.pdf (accessed 16 December 2014).
- Pryce, V. (2013) Prisonomics: Behind Bars in Britain's Failing Prisons. London: Biteback.
- Ross, N. (2013) *Crime: How to Solve It And Why So Much of What We're Told Is Wrong.* London: Biteback.
- Skarbek, D. (2014) 'Prisonomics: Lessons from America's Mass Incarceration', *Economic Affairs* 34(3), 411–21.
- Williams, K., V. Papadopoulou and N. Booth (2012) *Prisoners' Childhood and Family Backgrounds.*Results from the Surveying Prisoner Crime Reduction (SPCR) Longitudinal Cohort Study of Prisoners.

  Ministry of Justice Research Series 4/12. London: Ministry of Justice.
- Wilson, D. (2014) Pain and Retribution: A Short History of British Prisons, 1066 to the Present. London: Reaktion Books.