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Special Edition
**The Transformational Potential
of Prison Education**

Rethinking 'Rehabilitation'

Shaun McMann PhD is Prison Learner Co-ordinator (Midlands) at The Open University.

Introduction

The way a society treats outsiders reveals a great deal about its moral and ethical basis. There seems to be no clearer example of this than how a society deals with its prisoners. Obviously, there are many groups of people that are othered, but once a person is imprisoned, the experience of social exclusion can be almost absolute. In view of this, there are few better ways to measure the kind of society that a person lives in than to see how it treats its prisoners. Indeed, as Richard Sparks has suggested, 'the conditions of a society's penal institutions provides a measure of its magnanimity or meanness, its self assurance or anxiety'.¹ Interestingly, this echoes a similar sentiment expressed by Winston Churchill in July 1910, during his time as Home Secretary. As Churchill saw it;

*the mood and temper of the public to the treatment of crime and criminals is one of the most unflinching tests of the civilisation of the country.*²

One of the implications of Sparks' and Churchill's respective comments is that the experience of being in prison is socially determined. The treatment meted out to the imprisoned is a direct reflection of the way in which the prison system itself is imagined by politicians and the general public. As such, prisons and imprisonment can only be properly understood if they are placed within a broad social context. In essence, attitudes to imprisonment are a touchstone for societal attitudes more generally. It is therefore noteworthy that during the last two decades there has been a steep rise in the prison population in England and Wales. Even though this number has stabilised recently, it seems that this penal era can be characterised by an over-emphasis on the political and social desire to imprison people. On a more positive note, it is widely felt that once a person is imprisoned the principal objective should be rehabilitation. Although this is one of the key ideas that underpins the contemporary prison system, it is a complex and problematic notion which is used in a wide variety of different and sometimes contradictory ways. In view of all of these issues, what

follows is an assessment of what prison should be trying to achieve, and whether the much used term 'rehabilitation' has lost its meaning.

What Is Prison For?

When Tony Blair became Prime Minister on 2nd May 1997 there were 66,457 prisoners in England and Wales. By the time he left office, ten years later, the prison population had risen to 80,948. Despite increasing institutional concern about the social legitimacy of imprisoning such large numbers of people, Gordon Brown's subsequent tenure also saw year-on-year increases in incarceration rates. We are now more than six months into David Cameron's second term in office and even though the numbers have stabilised, the most recent National Offender Management Service's (NOMS) briefing statistics show that there are 81,832 adult males and 3,804 adult females behind bars in England and Wales.³ This means that approximately 0.2 per cent of the adult population of these two countries is in prison. On the surface, this sounds like quite a small figure. However, if one considers this in a slightly different way, we can see that approximately one in every four-hundred-and-fifty English and Welsh adult citizens is currently behind bars. Moreover, the MoJ has predicted that the prison population is set to rise above 90,000 before the end of 2020.⁴

There are two schools of thought that can help show the significance of this data. First, there are those who believe that the entire system of incarceration is not a legitimate or successful way to punish people who break the law. Indeed, David Wilson, himself a former Prison Governor, has argued;

*we know that prison fails by almost every measure that it sets for itself; we know that prison is a useless, outdated, bloated Victorian institution that is well past its sell-by-date.*⁵

These are strong words, but it is arguable that the continued increase in the prison population suggests that imprisonment does not deter criminal behaviour or reduce recidivism. Countering Wilson's scepticism, however, many of those on the right and in the center of

1. Sparks, R (2007) 'The Politics Of Imprisonment' in Jewkes, Y [Ed] *Handbook On Prisons* Cullompton: Willan Publishing p 75.
2. Wilson, D (2006) 'Prisons And How To Get Rid Of Them' p 3 Available: http://rethinking.catalystdemo.net.nz/eserv/rcp:743/Prisons_and_How_to_Get_Rid_of_Them.pdf.
3. <https://www.gov.uk/government/statistics/prison-population-figures-2016> [Accessed 21st February 2016]
4. See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380586/prison-population-projections-2014-2020.pdf.
5. Wilson, D (2006) see n. 2 p. 2.

British politics present an entirely different argument. These people are very much in favour of imprisonment as a means of deterrence, protection and rehabilitation. Probably the most famous advocate of this position was Michael Howard. At the 1993 Conservative Party Conference, Howard suggested that 'prison works'. Even though this has been described as 'stark, but evidence light',⁶ the political and social desire to imprison people does seem to be the dominant hegemonic position. Moreover, it is unlikely that this will change in the foreseeable future.

Regardless of one's position in the debate, the history of imprisonment inevitably maps directly onto the ideological trends of successive governments and their electorate. Of increasing significance is not so much that political ideas about the role of imprisonment are then turned into policy, but rather that these ideas have an impact that reaches much further than the judicial system. The undeniable contemporary fascination with crime, criminals and imprisonment suggests that the momentum of the debate has been gathering for several years. One outcome of this increased interest is that popular opinion can affect legislative and judicial policy. For example, when Anne Owers was Chief Inspector of Prisons she argued that sentencing practice is 'not only driven by legislation but also by sentencers' response to what they perceive the public want'.⁷ Moreover, as David Howells has observed;

*those in the best position to change or influence public opinion want to believe that 'prison works' because the alternative requires some radical, unpopular—possibly vote-losing—changes in policy and practice.*⁸

What this means is that the general public seem to have a direct influence on the creation and implementation of sentencing policy. At first glance this appears to be democracy at work, but questions must be asked in relation to whether the general public really is qualified to have such an important role within governmental decision-making. It is also questionable whether short-term electoral concerns, such as those that seem to be the driving force behind this key aspect of the legislative process, are the basis for the development and maintenance of a coherent, equitable and fair judicial system. Nevertheless, this is how things have developed

since the late 1990s, and as a direct result English and Welsh prisons are very nearly full.

Despite these concerns relating to the causes and extent of imprisonment, there is a need to face up to the situation and to work out what is to be done about it. One of the key issues within this is how people are treated once they have been sentenced. Ostensibly there are four main ideas that have long underpinned the establishing and running of the prison system in England and Wales; protection, deterrence, proportionality and rehabilitation. In relation to the first of these, the general idea is that law-breakers should be imprisoned to protect the law-abiding population and, to a certain extent, themselves. Secondly, the threat of going to prison, alongside the potential treatment once inside, should act as a deterrent to would-be criminals. Thirdly, sentences should be proportionate to the crimes committed. Finally, once someone is in prison there should be some emphasis on

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rehabilitation. It is interesting that even though a succession of government-appointed committees has made recommendations that the contours of the prison regime should be altered, these adjustments have largely left this overall model intact. Having said this, it is notable that since NOMS was established in 2004 it has adopted a slightly different approach to the traditional quartet by identifying four other bases for

running the prison service. The main thrust is that people in prison should be:

1. Kept safe
2. Shown respect
3. Engaged in purposeful activity
4. Resettled once they have served their sentence

This new formulation is interesting because it potentially focuses on the well-being of people in prison. In other words, it appears to mark a shift away from structural issues, towards a more person-centred approach to incarceration. This is potentially a very good development. Despite the problematic nature of imprisonment, this model seems to emphasise the protection and enabling of those members of society that have transgressed and subsequently become further marginalised.

Even though all four of NOMS' criteria are significant for prisoners, it is arguable that the most important thing that a prison can do is to act as a facilitator. What this means in practice is that prisons' main aim should be to

6. Jupe, R (2006) 'Prison Matters: Reflections On Prisons And How To Get Rid Of Them' in *PMPA Review* Vol 33 May 2006, p 5.

7. Owers, A (2007) 'Imprisonment In The Twenty-First Century: A View From The Inspectorate' in Jewkes, Y [Ed] *Handbook On Prisons* 1-21 Cullompton: Willan Publishing p 1.

8. Howells, D (2006) 'The Case For Penal Abolition In England And Wales' in *PMPA Review* Vol 33 May 2006, pp 6-7.

put their residents in a position where they do not *want* or *have* to re-offend after they are liberated. This clearly does not mean that people in prison should be the passive recipients of a supposed penal experience based on popular consensus. Rather, a far preferable route would be to help empower the hitherto socially powerless. The issues to be overcome have been very neatly crystallised in a Ministry Of Justice (MoJ) survey, which used an opportunity sample of 1457 newly sentenced people. Of these, 15 per cent were homeless and nearly 50 per cent were unemployed in the time immediately before being taken into custody. The same survey also found that within this sample, 13 per cent had never had a job, 58 per cent had regularly been truants and 46 per cent had no formal qualifications.⁹ It is therefore imperative that if people are going to be sent to prison, their time inside should be spent in ways that address their previous social situation. Pivotal in this, therefore, is the role and definition of two key issues; rehabilitation and purposeful activity. Even though these two functions of the prison system are intimately interwoven, it is nevertheless necessary to tease them apart in order to identify and evaluate what they actually mean in practice.

Rehabilitation: The Term and The Concept

In the most general terms, the verb 'to rehabilitate' refers to a process of reinstatement or of returning someone or something back to a good condition. It is also a medical term that describes a recovery to full health. However, according to the 1974 Rehabilitation Of Offenders Act, it is also an automatic consequence of certain kinds of imprisonment. Although Section 5 (1) of the Act contains a number of caveats, rehabilitation is entirely dependent on the length of a prisoner's sentence. When the Act was first established, the maximum period that someone could serve and then be rehabilitated was 30 months. However, in 2012 this was extended to 48 months.¹⁰ In other words, if someone is now sentenced to more than 4 years in prison they cannot technically be rehabilitated, no matter how they behave whilst in custody. This legal definition clearly raises some problematic issues. The first, and probably most important, is that it is purely quantitative. In essence, 'all cautions and convictions may

eventually become spent, with the exception of prison sentences ... of over four years and all public protection sentences regardless of the length of sentence'.¹¹ Moreover both Acts allow:

*convictions, cautions, reprimands and final warnings in respect of certain offences to be considered 'spent' after a specified period. Once 'spent', the person is considered rehabilitated and the Act treats the person as if they had never committed the offence.*¹²

Crucially therefore, it is the time spent in prison, rather than the crime and its aftermath, which leads to the possibility or otherwise of the person being rehabilitated.

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This leads on to a second problem. There is no consideration of the prisoner him- or herself within the rehabilitative process. In law, it appears that rehabilitation is specifically a structural issue. That is to say, it is a top-down process that is 'done to' seemingly passive recipients. So, the possibility of rehabilitation after sentencing is entirely independent of the individual concerned. In both of the legal senses — rehabilitation as a *quantitative* and a *structural* issue — the process places no emphasis whatsoever on the criminal act, nor does it refer to deterrence, contrition or self-

improvement. Therefore, the legal term 'rehabilitation' seems to stand in direct opposition to the way in which this concept is used by most people.

In a more everyday context, rehabilitation tends to mean something quite different from its legal definition. Generally speaking, most people who work in prisons or who are interested in the role and function of prison — from all political persuasions — tend to use 'rehabilitation' as a shorthand term that describes a number of changes to the individual concerned. It is therefore an ontological or existential concept that denotes a fundamental psychological and behavioural shift. However, this version of rehabilitation itself contains a number of vagaries and different ways of thinking. For some, this more commonsense version of rehabilitation is about desistance. For others, it relates to facing up to one's criminal past, showing remorse and contrition, and then

9. See <http://researchbriefings.files.parliament.uk/documents/SN04334/SN04334.pdf>.

10. See http://www.legislation.gov.uk/ukpga/2012/10/pdfs/ukpga_20120010_en.pdf.

11. See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299916/rehabilitation-of-offenders-guidance.pdf p 3.

12. 'Rehabilitation of Offenders Act 1974: A Nacro Guide (2014)' p 1. Available: <https://www.nacro.org.uk/wp-content/uploads/2014/05/rehabilitation-of-offenders-act-1974-guide.pdf>.

making some fundamental personal changes. It appears that beyond the very precise legal definition, rehabilitation means different things to different people. Arguably, this disjunction has taken a fundamental prison-related process and turned it into a catch-all term that has somehow lost its meaning. In short, the legal term 'rehabilitation' and the general concept 'rehabilitation' seem to be at odds with each other.¹³ In view of this, as *the term* has a very specific legal meaning, perhaps there is a need to find another way of describing *the concept*. A good starting point would be to think of *the term* as a structural approach and *the concept* is an agency-based issue. Moreover, as *the concept* emphasises personal change, it should not use the same terminology as an entirely structurally-determined process that is principally designed to avoid employers 'prejudicing [an ex-prisoner] in any way in any occupation or employment'.¹⁴

The concept of rehabilitation, as an internal, intrapsychic process, is not at all quantitative. Rather, it is based on the quality of the person's experience both inside and after prison. For many people working with prisoners, rehabilitation is a guiding principle. However, as *the concept* is used to refer to a whole series of experiential issues, its use in this context arguably dilutes its true, legal meaning. There is, it seems, a need to replace it with something that suggests the facilitation of life chances, rather than a legal status routinely bestowed by the government and the prison authorities. Equally, this new formulation should be predicated on the notion that it forms the basis for the individual's active reintegration back into society. Developing a more coherent way of referring to this process is clearly easier said than done. However, perhaps the way forward is to think of NOMS' notion 'purposeful activity' as the starting point for reassessing this agency-based way of helping prisoners to become citizens.

Purposeful Activity¹⁵

According to the MoJ, 'purposeful activity' includes vocational training, workshop/industry employment, drug treatment programmes and education. These activities make up a prisoner's core day and are rewarded by a token wage that is paid by the prison. Part of the rationale for this system is to avoid the often-reported situation when prisoners are locked in their cells for up to 23 hours a day. Taking this a stage further, the MoJ have expressed a desire for prisons to become:

*places of hard work and industry, instead of enforced idleness Hard work for offenders is at the heart of our plans to make punishments more rigorous ... Prisons should not allow offenders to simply mark their time in a purposeless fashion. Rather, prisons should be seen as places where increasing numbers of prisoners are engaged in challenging and meaningful work.*¹⁶

It seems therefore that above all else the emphasis is on *work* as the primary vehicle for what is commonly seen as part of *the concept* rehabilitation.

The idea of work programmes in prisons is not new, and they are popular with policymakers, governors and the public alike. As well as potentially going some way towards offsetting the cost of their imprisonment, work for people in prison avoids idleness. There are also security benefits for a prison if its residents are kept occupied. As prisoners address their addictions, anger and other issues through treatment programmes, they also potentially develop a positive attitude towards structured work. Indeed, as Hawkins has suggested, a 'constructive member of a community is, by definition, a working member Successful offender reintegration into society, therefore, requires that he or she must not only possess but illustrate a good work ethic'.¹⁷ However, no matter how hard a prisoner works, and how much he or she wants a job after being released, it is still very difficult to find satisfying employment when you have a criminal record that cannot be spent. Therefore, it seems self-evident that work programmes that form the basis of *the concept* rehabilitation cannot realistically be expected to deliver what they set out to.

There are also clear statistical indications that work programmes don't work. This is particularly apparent when one reflects again on the high reconviction rates in England and Wales. In short, work-based purposeful activity doesn't lead to appreciable levels of desistance. Despite significant government spending on Offender Management over the last decade, reconviction rates have barely changed and almost half of those released from prison go on to commit crimes within twelve months.¹⁸ Clearly, this is an unacceptable situation and, as such, there is governmental acknowledgment of the need to reduce reoffending. There is also a similarly pressing requirement to reduce the number of victims of crime and the cost of incarceration.

13. For the rest of this article, the legal definition will be referred to as *the term* rehabilitation, whereas the more usual way in which it is used will be referred to as *the concept* rehabilitation.

14. Rehabilitation of Offenders Act (1974) p 5 [my addition]. Available: http://www.legislation.gov.uk/ukpga/1974/53/pdfs/ukpga_19740053_en.

15. I am very grateful to Stephen Akpabio-Klementowski for his help in producing this section.

16. Ministry Of Justice (2010) 'Breaking The Cycle: Effective Punishment, Rehabilitation And Sentencing Of Offenders' pp 1 – 15. Available: <http://webarchive.nationalarchives.gov.uk/20120119200607/http://www.justice.gov.uk/consultations/docs/breaking-the-cyclepdf>.

17. Hawkins, GJ (1976) *The Prison: Policy And Practice* Chicago: The University Of Chicago Press p. 115.

18. See Prison Reform Trust (2015) *Prison: The Facts [Bromley Briefings Summer 2015]* Available: <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Prison%20the%20facts%20May%202015.pdf>.

Finally, work programmes can be exploitative, particularly as they use prisoners' labour without paying anywhere near the work's market value. Whilst members of wider society may see the benefit of this way of spending time inside, it potentially exacerbates an already enormously difficult situation by leading to some prisoners feeling resentful. So, rather than improving life chances and helping the person to move towards reintegration, it can lead to exactly the opposite. When society incarcerates an individual, it deprives him or her of most normal opportunities and much of the motivation for self-improvement. In these circumstances, the idea of attempting to 'rehabilitate' prisoners is both intuitive and a form of enlightened social self-interest. However, this process should be based on human decency and morality, rather than exploitation. Therefore, by mainly emphasising paid employment, it is arguable that purposeful activity will always fail to have the desired impact on reoffending rates.

There is compelling evidence that prison education can resolve many of these issues. More particularly, Justice Data Lab findings strongly suggest that people in prison should be given every encouragement and opportunity to take part in Distance Learning (DL) during their incarceration.¹⁹ The key difference between conventional classroom learning and that which is delivered at distance is the need for the student to manage their time effectively and to develop the reflexive ability to become an independent learner. So, even though Wilson quite rightly notes that 'prison is costly, counterproductive and except in a few cases in no one's interests',²⁰ it may be possible for some people in prison to be able to make the best of their time behind bars. Perhaps, the greatest failure of the focus on work programmes is that it is all too often foregrounded and therefore makes educational opportunities seem less significant, even though there is clear evidence that DL is one of *the* primary bases for significant life changes and a new way forward for people who have been incarcerated.

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Educationally-Based 'Rehabilitation'

According to Michel Foucault:

*the education of the prisoner is for the authorities both an indispensable precaution in the interests of society and an obligation to the prisoner.*²¹

In this spirit, *the concept* rehabilitation should refer to a process in which a prisoner is occupied by activities that actually have long-term individual and social benefits. As already argued, one key part of any meaningful approach to purposeful activity is that people should be able to receive an education during their incarceration. Purposeful activity should ideally involve a whole variety of forms of education including key skills, vocational skills, Further Education (FE) and Higher Education (HE). Even with the best will in the world, however, a prison education department is only as strong as its resources. Like most aspects of the public sector, prison education departments are at the mercy of the political ideology of the day. For example, if one looks back to the days of Michael Howard's occupancy of the Home Office, his desire to see 'decent but austere' prisons mitigated against certain types of learning.²² Equally, the 'treatment and training' ideology that emerges from time to time

also gives rise to an entirely different and unsatisfactory set of educational opportunities. In both instances there are questions regarding whether prison education is primarily based on engaging people in prison in purposeful activity as a form of *occupation* or as a basis for *significant life changes*. In other words, prison education is either a way of serving/passing time or it has a far more socially and individually useful role to play. This issue is particularly significant at the current time because the provision is moving further and further away from HE to focus much more on key skills and basic forms of educational training.

Using the National Qualifications Framework (NQF), prisons assess a student's capabilities. If necessary, they begin with Entry Levels 1 — 3 in which basic key skills such as literacy and numeracy are taught. It is quite

19. See Ministry Of Justice (2014) *Justice Data Lab Re-Offending Analysis: Prisoners Education Trust*. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/270084/prisoners-education-trust-report.pdf.

20. Wilson, D (2006) see n. 2 p. 5.

21. Foucault, M (1977) *Discipline And Punish: The Birth Of The Prison* London: Penguin Books p 270.

22. This ideological approach found its most recent expression when Christopher Grayling, the then Secretary of State for Justice, introduced restrictions on prisoners' access to books. Thankfully, his successor, Michael Gove, appears to have a much more progressive approach to prison education.

understandable, and perhaps desirable, that a lot of time and effort is given to Entry Level skills. After all, being able to read and write will make a huge qualitative difference to the lives of every person in prison. After a student has progressed past Entry Levels, there are then 8 other educational strata that they can aspire to. There are many forms of qualification at each of these levels, but for ease of discussion this is what it broadly refers to in a purely academic context:

Level 1	GCSE Grades D — G
Level 2	GCSE Grade A* — C
Level 3	A Level
Level 4	Undergraduate Year 1
Level 5	Undergraduate Year 2
Level 6	Undergraduate Year 3
Level 7	Masters
Level 8	PhD

So, completing Entry Levels 1 — 3 potentially opens up a whole world of educational possibilities. However, of great interest here is that current funding streams are only available for NQF Levels 1 — 3. What this means is that despite Level 4 and above being a contractual obligation for the current education franchise holders, it is often seen as an add-on. Indeed, in a number of prisons it isn't even available.

As such, this seems to suggest a pressing need for three changes in approach to the education of prisoners. First, the nature and role of prison education needs to be forensically examined. In short, there needs to be an assessment of whether the appropriate levels of education are being offered to prisoners. Second, there should be much more funding at Level 4 and above. Third, there should be a detailed longitudinal assessment of the extent to which studying at Levels 4 — 8 enables an ex-prisoner to settle back into the community and to avoid committing further crimes. It should be also noted here that even though the lack of opportunity to study at this level is generally framed as a financial issue, the benefits cannot adequately be seen purely in monetary terms. If one considers that it takes on average £65,000 to take some to court and imprison them, and then the annual prison bill is approximately £40,000 per adult prisoner per year, the savings that are made by cutting back on education seem relatively insignificant.²³ However, the experiential and existential benefits of prison education really cannot be quantified in this way. Judging by that statistical evidence from the Justice Data Lab, there are good grounds to argue for a direct causal link between gaining a DL-based education whilst in prison and going straight. However, as much DL is at these higher levels this constitutes a missed opportunity. Given the persuasive evidence that there is direct causal link between DL and desistance, and that there are

enormous financial savings to be had if people stay out of prison after release, the key question seems to be why isn't DL more of a priority within purposeful activity?

Conclusions

Even though it is relatively easy to completely ignore the plight of prisoners, rarely can one open a newspaper without being able to find stories relating to some aspect of imprisonment. Although, at the time of writing, Islamist terrorism, Brexit, immigration and the US Presidential Election are currently dominating much of the headline debate, it still seems that prisons are rarely out of the main news for more than a few weeks. Popular interest in prison and imprisonment seems to have been a big contributory factor in a disproportionate, but ever-increasing, prison population. With such a large percentage of the population behind bars, there are two obvious reactions from the general public. The first is a feeling that we must be living in a time of unprecedented lawlessness. The second is a diminished belief that prisons can reform their residents, so sentences should be longer. In a society which emphasises work as the major basis for status, prison labour is clearly important, not least because it can help under certain circumstances to lead to what people often call 'rehabilitation'. However, the two main contentions of this paper are firstly that *the concept* rehabilitation needs to be reviewed and renamed. Secondly, alongside all the excellent work that is done in prisons to help their residents address their previous behaviour, Distance Learning can significantly assist in the necessary preparation for life on the outside. For example, a prisoner could quite realistically spend the start of their sentence learning to manage their anger and addiction. They could then move on to a vocational training course to acquire a trade and potentially be self-employed upon release. However, basic business and/or bookkeeping skills which can be learnt on an FE or HE DL course would be a distinct disadvantage. Also, prisoners involved in this kind of learning are known for their self-discipline, make a real contribution to their prison community and are role models for their peers. Over the years I have been told by dozens, if not hundreds, of prisoners that they have experienced enormous intrapersonal changes since they began DL modules and courses. As such, there are compelling individual, social, political, economic and cultural arguments to prioritise DL opportunities in prison. The entire basis of purposeful activity has to be more clearly defined, resourced and facilitated with a much greater emphasis on meaningful DL educational opportunities. After all, if this is not the best way of 'doing time', then frankly what is?

23. See Focus Prisoner Education: The Cost Of Prisons. Available at: <http://www.fpe.org.uk/the-cost-of-prisons/> [Accessed 3rd January 2016]