

Inclusion and exclusion within and beyond the prison: Exploring the punishment of men convicted of sex offences in England & Wales and Norway

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Comparative Penology

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Increasing proportion of the prison population in both jurisdictions

Norway

	2002	2012	2015	2016	2017
Number of sentenced prisoners convicted of sex offences	156	342	441	479	479
Total sentenced prison population	2067	3074	2950	3064	2588
Proportion convicted of sex offences	7.5%	11.0%	14.9%	15.5%	18.5%

England & Wales

2000	2014	2017	2019
10%	16%	18%	18%



Inclusion/exclusion and penal philosophy

- Men convicted of sex offences are excluded within and beyond the prison
 - How does this vary by jurisdiction? How does it tie in with penal philosophy?
 - Are neoliberal exclusion and interventionist inclusion the only options?
- Duff (2001) – punishment is only justifiable if it's *inclusionary*:
 - Addressed to a citizen
 - Represents a form of penance
- Imprisonment is inherently exclusionary; can it serve an inclusionary function?



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Plan for the talk

1. Who are sex offenders to the state, and what are they trying to do with them?
 - a. The purpose of the sentence
2. What happens during imprisonment?
 - a. 'Sex offenders' and 'mainstream' prisoners
 - b. Modes of governance and discipline
3. What happens after imprisonment?
 - a. Formal restrictions
 - b. The community
 - c. Paying your debt



Research sites

Jurisdiction	Prison	Description	Operational capacity
E&W	HMP Littlehey	Category C (medium security) prison for men convicted of sex offences	1220
	HMP Norwich - C wing	A Vulnerable Prisoners' Unit mostly for men convicted of sex offences, in a Category B local prison	107
Norway	Bergen - M wing	A treatment wing for men convicted of sex offences	16 (with 16 'mainstream' prisoners on the other side of the unit)
	SVF Berg	An open prison for men, a third of whom were convicted of sex offences	40



E&W: Risks to be managed to protect the public

- ‘Sex offenders are never ever cured. Right! All that happens is they are taught how to manage their risk. How to recognise when situations are becoming dangerous, like who to go and see for help.’ (Kyle, Littlehey)
- ‘**I don't think the system is geared up or designed to rehabilitate people, if I'm honest. The system has fixed notions of offenders that never change.** That much is evident in the fact that when you go into society, you're required to disclose your conviction; you're barred from doing all kinds of things. So **if there was any sense, any genuine sense that people could be rehabilitated, then they would be allowed to forget their past and move on.** But you are never allowed to forget, especially if you're a sex offender in this society, you're never allowed.’ (Carlton, Littlehey)



N: Fewer restrictions and demands

Everyone who gets out has a duty to meet with the Criminal Justice care system, **but because of my behaviour in prison and because I have the support system around me that I have, they didn't think it necessary in my case.** I'm happy about that, because it means I have had more time to work with myself and taken the time I need to get help. They can impose further obligations on you if they so wish. As long as I continue as I am now, it should be fine. (Julius, SVF Berg)



N: Punishment as marking wrongness

In your case, I completely agree that there are many different purposes for punishment, but what do you think was the purpose of the punishment you received?

Correction. Reacting so strictly towards you that you don't want to do it again. [...] And then you have the “protect the community” thing. I don't feel that that has anything to do with me because it is only two months. **If society needed to be protected from me, then they should do a better job of it, if you get what I mean.** Because letting me go free for a year and a half and then having me in prison for two months, that is not very protective of society. [...]

What is the difference in your mind between rehabilitation and what you are calling correction?

I feel that if you are part of a rehabilitating process, there should be a plan. **But there is no plan for rehabilitating.** (Petter, Arendal)



N: Punishment as marking wrongness

If you take an individual out of their place in society and move them to a different place in society for a prison sentence, store them there and then put them back, then I don't feel like that can be called 'rehabilitation.' Other than possibly with certain inmates, it is just moving people. And I don't think that can be considered rehabilitation. (Petter, Arendal)



N: Punishment as marking wrongness

What do you think is the purpose of the sentence you got? [...]

The purpose is to both, for me and for the community, is stating that this is not acceptable behaviour. And I completely agree with that. If it happens, they need to have a quick reaction. So that is what the purpose really is. To tell me that this is not okay, this is not accepted. (Bertram, M wing Bergen)



E&W: Interventionist exclusion

They tried to put restrictions on me having contact with my mum, due to my sister being in the family home, but yeah, they couldn't.

Who tried to put them on?

The prison. [...] They tried taking my mum's number off the phone. At these times it would have probably only been two years that I've been getting that contact back.

Do you know which unit in the prison it was? Was it Security or PPU [the Public Protection Unit]?

Security and PPU. They said, 'Why's he contacting his mum when his sister's living there,' blah blah blah. I think they virtually got the wrong end of the stick. (Aaron, Littlehey)

N: Laissez-faire inclusion

And I'm saying, for me it was nothing, in a way. It was four months of my life. But that is because I had a relatively easy time.

[...]

This was a special case. There was no victim. There is no victim. She visits me all the time in prison. Right? [I was punished] 'in consideration of the victim.' But there is no victim! There is no victim! So it was, like, I was bitter about that. She was visiting me all that time in prison. That would be strange. Unless it's some Stockholm Syndrome [chuckles]. So it, no. But I don't, my life is, like I said, those four months for me, they were just a small event in my life. (Nils, open unit in Norwegian prison, post-release interview)



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E&W: Top-down exclusion to ensure safety

‘You hear them saying things on the radio like “Oh we can't move the VPs [Vulnerable Prisoners] because the Normals are moving”. It's like, I'm normal, do you know what I mean?’ (John, Littlehey)



E&W: Top-down exclusion to ensure safety



E&W: Top-down exclusion to ensure safety

The guy I'm talking to and his friend get quite angry and heated about how unfair this is – 'I'm not even a sex offender' – and an officer goes outside to tell them to move on. 'They think they're so fucking hard, but she opened the door and they didn't even come in. They're fucking uneducated.' (Fieldnotes, Norwich)



E&W: A community of sex offenders?

What is it that makes you feel safe?

Just that everyone is just... well I don't know, no one is really dangerous and everyone is a sex offender, so I haven't got to look over my shoulder. (Robin, Littlehey)

When I was in the mainstream environment I was constantly having to defend myself from physical attacks, so it's a lot less stressful being here. But from an ego perspective, you're kind of like... I was there fighting my corner and standing up for myself, whereas here staff can talk to me any way they want and there's nothing I can do to it. They can treat me any way they want and there's nothing I can do. So I feel demoralised. I can't really put it into words, but from an ego perspective I feel like I'm regarded as less of a person in this environment than I was when I was in that environment. (Carlton, Littlehey)



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N: Bottom-up exclusion

I have a very bad conscience towards the guys who are my friends. Because there are two or three people who I would like to stay in contact with afterwards. Go on fishing trips, tell them to reach out for me if they're coming up to [where I'm from]. Definitely. So that really bothers me”.

[...]

‘I have to say that the two who I have told my story to, the one was down at the hospital with me and I told him about the whole case. From start to finish. And he was very, he comes and say hello. [...] He showed me that he cares and actually believes what I've told him. [...] In a way it is a bit freeing to know that there are some people here who know, in a way. But that doesn't help me day to day. It doesn't. (Hans-Olav, Ullersmo)



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N: Pockets of community?

A West was definitely the most difficult, especially those first weeks. A West is definitely the most difficult. I was in isolation after, I had letter and visitation restriction so I had no contact with people outside at all. I knew nothing about how they were handling things, whether they had enough support or if they were struggling. Yeah, it was an experience that I wouldn't want to go through again. On East, things got a little better after a while. On C, there was a turbulent period, but I experienced very little despite what I am in for. I experienced very little harassment, actually. But even so, there was **a totally different level of safety when I came down here.** (Dalton, M wing Bergen)



E&W: Intervention helps prisoners manage shame

I hate what I did, and I hate the pain I've caused. But I guess to a degree I've compartmentalised it. [...] I feel I've done everything I can to make good on the bad that I've done, and make amends. I often check with my Offender Supervisor, or probation, and say look, is there anything more I can do. I can't change, I can't erase the past, and I would love to. I would happily give my life now if I could erase that past, happily. I'd do anything to erase that past. But I can't. And so I've got to accept it, accept that I don't like it, accept that I don't like my actions, I don't like what happened there, but I've done all I can to try and understand it, and prevent it happening again in future, and try to live my life well now, and I hope, when I get released, have the opportunity to be a good person, and again, try and make amends for things that I feel I've done. (Emmett, Littlehey)



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E&W: Inconsistent interventions

They're dangling carrots that are not really carrots. The thing is, you're never going to catch the carrot because it's on a stick. That metre stick is always going to be a metre in front of you. (AJ, Littlehey)



N: Passive responsibilisation

I used all of my time to rationalize and excuse and assigning blame, all sorts of things. And it was so tiring. Then I started to go to a psychologist at [prison] which led me to apply to here. **That process has made me, 'You know what? I can have peace in my mind if I pretty much take responsibility for this.'** But it went even farther. I reached out to a victim and the mother of the victim, who is my ex-wife. And apologized for what I have done and explained what I have gone through because of my actions. And I took full responsibility for everything that has happened. That they have not said or done anything wrong at all in this process. That they cannot go around with a bad conscience because they put me in prison. That did a lot of good. (Bertram, M wing Bergen)



N: Passive responsabilisation

That you felt the need to write those letters, is that something that you were encouraged to do here as a part of your treatment?

No, that is something that I chose to do for myself. As a part of the process of taking responsibility for my actions. That's why I chose to do it. They should not sit there and feel that they have and responsibility or blame. I don't think they do, but I wanted to make sure. That is why I sent the letter. They should not be afraid of seeing me on the street or anything at all. I have no anger towards them. (Bertram, M wing Bergen)



N: Inclusionary punishment without intervention?

I talked about it with Per yesterday, too. I asked him, “Do you feel that being in prison has made you less like to do what you are in prison for again?” And he answered no. And I agree with him.

That being scared away from doing it...

It doesn't work. At least not for me. I don't feel like, well I've been convicted of it once so statistically it worked. If you were to count me, it worked. **But I don't feel like the prison time part of it has made me less likely to do it again. I think that I won't do it again, but at the same time I don't feel that it is the prison which has made it less likely. It is more of the other mental processes around it. The message from society through the court process.** (Petter, Arendal, post-release)



N: Inclusionary punishment without intervention?

But, is it about, do you also think it is about some sort of, those feelings of blame or shame, that the prison sentence wasn't enough to help get rid of those feelings?

It's difficult to answer. Because I don't think that is what the prison's intention is. It's hard to compare yourself to other people who are in prison, what they are thinking and feeling. We don't talk about it. But I don't think that the prison did that. **It would be better to talk about it. To have some sort of group where you can sit and talk about those things.** Or, yeah, talk things through. (Petter, Arendal, post-release)



N: Inclusionary punishment without intervention?

Like, I am now legally done with that case. Legally done with it. Society has said that, or at least how I read society, society has said “You’ve done something, you’ve served your sentence, now you’re done with it. [...] It’s a debt, you’ve paid your debt, and your debt is done. But I don’t feel like that is what you feel yourself. If you really felt sorry for what you did, I don’t think you get rid of that through being in prison. (Petter, Arendal, post-release)



E&W: The states blocks reintegration

My plan is, **once I've done my licence, I'm going to move out the country. I've looked at a few places in Ireland and that, it looks quite nice over there.** As stupid as it sounds, that's because of my SOPO [Sexual Offences Prevention Order, a sort of civil order] and **I'm not trying to run away from it but I want to live a normal life. I want to take my surrogate children out for lunch.**

Can you not take them out...?

I can take them with [girlfriend] or with my mum, or whoever but I can't on my own.

And would that be the case..?

For the rest of my life, yeah. Like my niece, for instance, I can't even just take her down the shop. I turned up there the other day, so I knocked on the door, she opened but her nan wasn't in and her mum wasn't in so I had to go away and wait for them to come back.
(Carlos, Littlehey, post-release)



E&W: Release as an extension of the punishment

I haven't done my time yet.

Do you feel like that?

Yeah because I think that's where people let themselves down. [...] Complacency sets in and it's very easy then to do something which may then go against a SOPO or a licence condition, even a minor thing, that's still a recall, you're back inside. I don't let myself feel that I'm... **I'm still on my sentence. I'm still in prison, I'm just in a different prison. I'm in a very, very, very open prison.** (Joel, Littlehey, post-release)



N: Release as a conclusion of the punishment

When I finally got out, it was really good. I haven't experienced a feeling like that before. I will remember that feeling for a long time.

[...]

It took a bit of time to realise that I didn't have to report to the guards any more and things like that. It was fine in the end, but there are certain habits that still linger, like the fact that I should not be out after 11.00 at night. Many times I have stopped at the door thinking "I can't go out at this time", but then I realise "of course I can". Then I just have to stop and think and say to myself that I have finished that part of my life.

You mean finished with...?

That I have served my sentence and it's over. (Julius, SVF Berg)



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N: The community as the agent of inclusion

If you have eight people around you, then it's difficult for someone to approach you, in a way. At least that's how I feel. So there have been a lot of those things. Going to the store with eight people who are walking around with you and laughing and joking around, there is a good atmosphere. You feel like you are a bit, that it is harder for someone to bother you. (Petter, Arendal, post-release)



N: Fugitive and fragile inclusion

But it gives a bit of extra safety, to know that I can. I don't necessarily know that I will need it, but just to know that I can. That can be good enough to let you actually relax and not think so much about it.

You would, in my head you are preparing yourself for a type of fear.

I'm preparing myself that my life could go that way. I wouldn't be surprised if it does. I am just preparing for all eventualities so that, okay, something could pop up that I haven't thought about. But I have thought about enough that yeah, oh well. Enough has happened. Enough is going to happen. **Either I will be left in peace or it will be hellish. Or something in the middle.** (Bertram, M wing Bergen)



Summary

England & Wales – interventionist exclusion	Norway – laissez-faire inclusion
Sentence seeks to manage risky objects	Sentence seeks to mark wrongness
Become a ‘carceral citizen’ (Miller & Stuart, 2017)	Remain a citizen
Difference from ‘mainstream’ prisoners reinforced from above	Social isolation enforced from below
Tight rehabilitative demands, without much chance of meeting them	Few rehabilitative <i>demands</i> , some rehabilitative opportunities, but often the sentence lacks meaning
The state blocks reintegration post-release	Reintegration is left to the community



Concluding questions

1. How can you meaningfully compare experiences in two state jurisdictions when the state isn't the only powerful actor?
2. Why is Norway less interventionist with people convicted of sex offences than with people convicted of drugs offences?
3. Is it possible for punishment to be inclusionary? What about imprisonment?



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