

Heavy–light, absent–present: rethinking the ‘weight’ of imprisonment¹

Ben Crewe, Alison Lieblich and Susie Hulley

Abstract

Since King and McDermott (1995), following Downes (1988), defined the psychological oppressiveness of incarceration in terms of ‘weight’, little has been written about the ‘weight of imprisonment’. None the less, it is generally assumed that prisons that are ‘light’ are preferable to those that are ‘heavy’ – in part because of an assumption among many penologists that power, and its application, is dangerous and antagonistic. This article does not dispute that ‘heavy’ prisons are undesirable. Its argument is that there can also be dangers if prisons are excessively light. Many of these dangers are linked to the under-use of power. The tone and quality of prison life depends on the combined effects of institutional weight with the ‘absence’ or ‘presence’ of staff power. Drawing on prisoners’ descriptions of their experiences in public and private sector prisons, and their assessments of important aspects of their quality of life, the article outlines what these concepts mean in practice. The authors develop a four-quadrant framework for conceptualizing penal legitimacy and the experience of penal authority.

Keywords: Imprisonment; weight; power; legitimacy; prison staff

In *Contrasts in Tolerance* (Downes 1988), a comparative analysis of English and Dutch penal policy and practice, David Downes argued that the extent to which imprisonment was ‘damaging and repressive’ depended on a range of factors: ‘relations with staff; relations with prisoners; rights and privileges; material standards and conditions; and a sense of the overall quality of life which the prison regime made possible or withheld’ (Downes 1988: 166). Summarizing the impact of these factors through the concept of the ‘depth’ of imprisonment, Downes argued that, in English prisons, imprisonment was experienced as ‘an ordeal, an assault on the self to be survived, time out of life’ (1988: 179), whereas in Dutch prisons, the rupture of confinement was ‘not so marked, the passage of time less prolonged, the sense of social distance from society less acute, and the problems of psychological survival less chronic’ (1988: 179).

Drawing on Downes' analysis, King and McDermott (1995) suggested a modification to his terminology: when prisoners used the term 'depth', they were generally referring to 'the extent to which [they were] embedded into the security and control systems of imprisonment' (1995: 90). When talking of 'the deep end' of the system, they meant being in high-security establishments, many years from release, almost subterranean ('buried deep') relative to the surface of liberty. What Downes had described was 'weight' – the sense of the conditions of confinement 'bearing down' upon prisoners, and the almost palpable burden of psychological invasiveness and oppression.² The metaphor was apt in part because it evoked the sense that the prison experience felt like a burden on one's shoulders, or a millstone around one's neck (McDermott and King 1995: 90).

Perhaps because of an association of power with coercion, and an enduring view among critical penal scholars that power, and its application, is always dangerous and objectionable, little reflection has occurred in relation to the concept of 'weight'. This article does not dispute that 'heavy' prisons are undesirable. Its argument is that there are dangers too if prisons are excessively *light*, and that the tone and quality of prison life depends on the combination of institutional weight with a related phenomenon: the 'absence' or 'presence' of staff power. Drawing on prisoners' descriptions of their experience, and their assessments of important aspects of their quality of life, this article outlines what these concepts mean in practice, and develops a four-quadrant framework for thinking about the experience of penal authority.

The weight of imprisonment

While the concept of the 'weight of imprisonment' has received little explicit attention in the research literature, many studies have explored the nature and consequences of different kinds of penal regimes. The early, classic sociological studies of imprisonment emphasized the core similarities of prisons (Sykes 1958; Goffman 1961), giving little consideration to the possibility that management might be a significant variable in shaping the prisoner experience. However, it was soon apparent that patterns in inmate organization and attitudes varied according to organizational goals and conditions (Grusky 1959; Berk 1966). Street (1965), for example, noted that the culture and social structure among prisoners was determined by the form and degree of deprivation that they faced and the manner in which staff exerted authority and control.

A clear implication of such 'deprivation' perspectives was that the inmate experience would be shaped by the particular pains and deficiencies that prison managers chose to alleviate or ignore. Sykes himself was pessimistic

that the pains of imprisonment could simply be ‘managed’ out, noting that there was a trade-off between different priorities, such as freedom and safety. As described by DiIulio (1987), in *Governing Prisons*, sociological conceptions of penal order had also promoted an assumption that prison administrators had little choice but to indulge prisoner power structures if they were to prevent breakdowns in institutional stability. In many prisons, DiIulio argued, the outcome of this form of resigned accommodation was a prisoner world characterized by idleness, chaos and pervasive violence, with staff discouraged from using their authority to regulate prisoner conduct. DiIulio used his comparison of levels of order, amenity and service in the penal systems of Texas, Michigan and California to propose an alternative vision of penal control. Key differences in prisoner outcomes were ‘rooted in differences of correctional philosophy’ (1987: 6), with the Texas model of strong, security-conscious, paramilitary bureaucracy more capable of delivering ‘a calm, peaceful and productive daily life’ for prisoners than more consensual models of prison governance.

The first tenet of DiIulio’s argument – that management practices are the key variable in determining the quality of prison life – is more persuasive than the second – that these practices produce the best outcomes when they comprise a ‘control style of prison administration’ (1987: 179). Research into prison riots supports DiIulio’s implicit contention that ruptures of penal order occur in prisons where there are breakdowns in administrative organization or staff–prisoner interactional assumptions (see Useem and Kimball 1989; Useem and Goldstone 2002; Boin and Rattray 2004). Historical accounts of prisons and prison systems (e.g. Jacobs 1977; Crouch and Marquart 1989) have documented how shifts in penal administration – and thus in the exercise of staff power – lead to changes in forms of prisoner safety, leadership and social structure. But while DiIulio rightly highlights the disadvantages of lax and under-supervised regimes, it is far from clear that rigid rule enforcement, tight supervision and impersonal procedural efficiency (see Crouch and Marquart 1989) represent the only solutions to penal disorder. In the UK, recent prison research has been animated by Tom Tyler’s (2006) argument that the most stable forms of order and compliance are generated by conditions that are *legitimate*. Seen in this way, the kind of ‘strong governance’ that DiIulio recommends is deficient because it is unconcerned with important components of procedural fairness, in particular, the degree to which authority is exercised in a manner that is respectful of those subjected to it and acknowledges their dignity and rights. Order, of a certain kind, can no doubt be established through more coercive and impersonal arrangements – as in ‘super-max’ establishments – but it is likely to come at the expense of personal wellbeing (Liebling assisted by Arnold 2004), co-operation, and longer-term compliance.

For current purposes, the most notable text is *Prisons and the Problem of Order* (Sparks, Bottoms and Hay 1996), which draws on ideas of legitimacy to

compare the different means by which two high-security prisons accomplished order (see also Sparks and Bottoms 1995 and 2007). Albany ran a restricted regime, with a strong emphasis on control and supervision, based on a 'situational' model of control. Long Lartin allowed prisoners greater autonomy, adopting a 'softer mode of policing', promoting closer relationships between prisoners and staff, and relying on a more 'social' form of control. On the face of it, Albany appeared more punitive and antagonistic – in our terms, 'heavier' – with more incidents of attrition between prisoners and staff, and conditions that seemed inappropriately constrained for long-term prisoners. Yet, in Long Lartin, although there was less friction between prisoners and staff, incidents and antagonisms between prisoners were more complex and serious. Long Lartin's more relaxed (or 'lighter') regime enabled the development of a more elaborate informal economy, a sharper hierarchy between prisoners (particularly between 'mainstream' prisoners and sex offenders, who felt somewhat 'thrown to the wolves' [Bottoms, personal communication]), and a greater degree of backstage violence.³ Some prisoners, particularly older men who sought a quiet and predictable existence, expressed a clear preference for the more controlled regime that Albany offered.

In highlighting some of the risks of the Long Lartin regime (see for example, Sparks and Bottoms 1995: 57–9), Sparks and colleagues anticipate our critique of penal lightness. They are careful to note that neither prison 'had achieved a fully satisfactory synthesis' of penal priorities. Yet there is an unresolved tension between their exposure of the problems that resulted from Long Lartin's culture of relaxed supervision and their judgment that it was none the less a somewhat more legitimate prison than Albany (see Sparks, Bottoms and Hay 1996: 328). Part of the reason for the incomplete analysis is that Sparks et al. did not then make explicit something they have written about since: that is, the 'self-legitimacy' of Long Lartin's powerholders, and the degree to which they were *dialogically* successful in their claims to legitimacy. Governors and prison staff at Long Lartin were mutually committed to a well-articulated strategy of liberal governance, and their confidence in this philosophy was affirmed back to them by the majority of Long Lartin prisoners. However, as Hinsch (2010) notes, and Sparks et al. clearly recognize, alongside this empirical concept of legitimacy, based primarily upon the subjective approval of prisoners, we should also consider a more normatively grounded concept of legitimacy, based on objective criteria of *justice* (see Bottoms and Tankebe 2012). We might also need to distinguish between the demands of prisoners and those of other relevant 'stakeholders' in the prison, such as the general public. As Bottoms and Tankebe (2012: 104) note, 'Legal officials sometimes have to consider their legitimacy in relation to more than one audience and [...] these audiences might have significantly different priorities'. We shall return to this general point in due course. The contribution we wish to make here is to add to this dialogue more concretely.

Among practitioners in England and Wales, any presumption that ‘light’ forms of imprisonment were inherently more desirable than heavier regimes lost credence in the years following Sparks et al’s fieldwork, not least due to two prisoner-on-prisoner murders in Long Lartin, alongside some high-profile escapes from other high-security prisons (see Liebling 2002; Liebling assisted by Arnold 2004). These events indicated that power was being under-used by staff in ways that were hard to defend or legitimate *either* to prisoners or to the wider public, and that the Radzinowicz philosophy for dispersal prisons of a ‘liberal regime within a secure perimeter’, was potentially highly hazardous (Liebling 2002).⁴ In Long Lartin and similar establishments, staff had yielded too much power to prisoners, under-enforcing legitimate rules, and allowing the development of ‘no-go areas’ on the prison landings (McDermott and King 1988). As the Prison Service sought to claw back control from the mid-1990s, the (heavier) Albany model of firm but fair control became more credible in the eyes of practitioners and politicians than the (lighter) Long Lartin model of negotiated order.⁵

There were important counter-currents to this development, which are relevant to our concerns. A series of prison disturbances in 1990, many of which occurred in local prisons with traditional staff cultures and generous staffing levels, testified to the dangers of excessively oppressive environments. Tasked, in part, with modelling more progressive penal cultures, the privately-managed prisons that were opened in England and Wales from 1992 appeared to foster staff–prisoner relationships that were more decent than those in the public sector. In James, Bottomley, Liebling and Clare’s (1997) evaluation of the first private prison to open in the UK in modern times, prisoners rated most aspects of their interpersonal treatment more positively than did their peers in a comparable public sector establishment. The ability to create ‘lighter’, more respectful staff cultures became part of the competitive promise of the private sector.

Several subsequent studies (see Liebling, assisted by Arnold 2004) and official reports (NAO 2003; HMCIP 2007) appeared to support the view that private sector prisons were more respectful and their regimes less distressing than their public sector counterparts. At the same time, however, they consistently identified weaknesses in privately-managed establishments in the domains of safety, control and security. James et al. (1997) found significant problems relating to staff inexperience, low staffing levels, and staff supervision; Taylor and Cooper (2008) described an environment in HMP Kilmarnock (Scotland) that was chaotic and unsafe; and Liebling (2004) noted that the escapes that occurred from HMP Doncaster could be linked to *excessive* levels of trust between staff and prisoners. In these prisons, staff–prisoner relationships were friendly and informal but not necessarily ‘right’ (Liebling assisted by Arnold 2004; Liebling 2011) – to put this another way, the trust expressed in these relationships secured the approval of one audience

(prisoners), but could not be considered legitimate in terms of the norms of society at large. Moreover, *prisoners themselves* expressed reservations about some aspects of the 'lightness' of their experience: poor regime organization, lack of boundaries, and inadequate policing by staff.

Such misgivings are significant for our understanding of penal legitimacy. Sparks et al's (1996) attribution of greater legitimacy to Long Lartin than Albany rests in part on their conclusion (Sparks, Bottoms and Hay 1996: 314–6) that the former's 'social' crime prevention strategy was 'grounded in the belief that one had to relinquish some manifest control in order to keep control in the long term' (1996: 322). Yet prisoners appreciate safety and security as well as interpersonal decency (Liebling, assisted by Arnold 2004), so that once control is relinquished beyond a certain point, a prison's legitimacy is eroded in their eyes as well as those of external stakeholders. Our argument, therefore, is that order and control are not just *outcomes* of legitimacy but are in themselves *aspects* of legitimacy, providing that they take certain forms that are *neither* too heavy nor too light. In other words, as we illustrate below, while prisons that are situationally oppressive or highly coercive are for all kinds of reasons disagreeable, it is a mistake to equate 'lightness' with quality if the environment is laissez-faire or dangerously under-policed. 'Light' can mean un-burdensome and easier to bear, but it can also mean 'insubstantial' or deficient – characteristics that are undesirable in prisons. The ideal might be an establishment whose staff exert authority without relying on the kinds of situational control measures that 'chafe and vex and arouse frustration and annoyance' (Sparks, Bottoms and Hay 1996: 323). Rather, if control is achieved *interpersonally* or *relationally* i.e. through staff–prisoner interactions and engagement, as much as through forms of restriction and surveillance, it can be 'present' yet relatively un-oppressive, with protective and supportive functions that prisoners appreciate.

The failure among penologists to appraise the concept of weight, to think through its different forms, or to examine its converse, 'lightness', exposes an assumption that the use of power in prison is inherently bad, that more power is worse than less, and that a prison that is 'light' is therefore preferable to one that is 'heavy'.⁶ McMahon (1992) argues that the reflex repudiation of power among critical scholars in the 1970s and 80s derived from Foucault's argument that disciplinary currents pervaded modern society. All developments in penal practice, however benign they appeared, were to be scrutinized as sinister re-formations of power, 'involving only more social control, repression, domination, and subjection' (1992: 218). All forms of power, all power-holders and all institutions of power were to be opposed and viewed with suspicion. This nihilistic position, McMahon argues, makes it impossible to identify 'what forms of the exercise of penal power, and by whom, might be preferable to others' (1992: 215).⁷

While much can be gained from a stance of scepticism towards apparently progressive penal developments, a position of blanket hostility towards all forms of power is unwise on both theoretical and empirical grounds (and is inconsistent with Foucault's (1982) own position). First, it is often forgotten that there are 'good' and 'bad' forms of power, and that while coercion is an aspect of power, it is not 'the essence of the phenomenon itself' (Wrong 1997: 261n). Power is 'the capacity of some persons to produce intended and foreseen effects on others' (Wrong 1997: 2), so this means that good power – power combined with care, for example (Sennett 1993), as compared with power used with indifference – can achieve positive outcomes. As Mulgan (2007) argues – and as Hobbes suggested – freedom depends upon order: we need power to flow to liberate us from disorder. Second, as Downes (1988) notes, and as we seek to demonstrate, what is required is serious investigation of the views of those who are subject to different forms of penal power.

The public–private sector study

Most of the data on which this article draws derives from a comparative study of public and private sector prisons, carried out over a two-year period from 2008–2010.⁸ Seven prisons were involved in the research, including five out of the eleven private sector prisons in England and Wales and two public sector establishments. In each of the four main prisons in the study (consisting of two 'matched' pairs of public and private sector establishments), the research team spent between six and eight weeks undertaking interviews with staff and prisoners alongside periods of observation and the distribution of quality of life surveys to prisoners and staff. The three additional private prisons were researched for around one week each, using the survey tools and a small number of interviews with prisoners, uniformed staff and managers. In total, in addition to surveys administered to 1145 prisoners and 500 staff, semi-structured interviews were conducted with 114 prisoners and 133 staff. Both groups were sampled purposively, in order to represent variables such as (for prisoners) wing, privilege level, prison experience, sentence length, ethnicity and age, and (for staff) wing, seniority, job function and sex. One-to-one, semi-structured interviews were undertaken in private rooms on prison wings, and were digitally recorded with the permission of interviewees. Most lasted between 40 and 90 minutes, and were subsequently transcribed and coded using NVivo software, with coding themes derived both deductively, from the research literature, and inductively, from emerging patterns in the data – a form of adaptive theory (see Layder 1998).

Alongside fieldwork notes, the prisoner interviews, which discussed issues including staff–prisoner relationships, and perceptions of treatment and safety, provide the primary material for this article. A key aim of the study was to

provide qualitative insight into cultural differences, staff practices, and the experience of confinement and authority in the two sectors. Interviewees who had served sentences within both sectors were asked to reflect directly on their experiences in each. At any one time, around 13 per cent of the prisoner population in England and Wales is held in private prisons (Ministry of Justice 2012), but sentences are often split between public and private sector establishments, meaning that the proportion of prisoners who have served time in the private sector is high; few prisoners have *only* ever experienced private sector confinement.⁹ Within our survey sample, 48 per cent of the 373 prisoners surveyed in the public sector prisons had only ever experienced public sector confinement, while only 6 per cent of the 772 prisoners surveyed in the private sector prisons had never spent time in a public sector prison. Quotations in this article from prisoners in private sector prisons therefore include their reflections about public sector prisons, and vice versa.

Reflecting collectively in the period following our fieldwork, we were confident that, were we to be deposited on a wing in any of the prisons in our study, we would very soon be able to sense whether it was publicly or privately managed. This was despite the fact that both the best and the worst quality prisons in our study – judged in terms of prisoners’ perceptions of their quality of life, as measured in a well-validated survey (see Liebling, Hulley and Crewe 2011) – were within the private sector.¹⁰ That is, the private sector prisons shared a distinctive consistency of ‘lightness’ compared to public sector prisons, despite the fact that their ‘moral quality’ was extremely variable: lightness was not, in itself, the main indicator of prison quality. The concepts of ‘absence’ and ‘presence’ that we outline in this article were derived initially from our collective attempt to work out what differentiated distinctive forms of lightness and weight. Our reflections led us to prisoners’ accounts of the use of staff authority and the overall ‘texture’ of the prison experience. We outline and illustrate all four concepts below, providing brief descriptions of ‘heaviness’ and ‘lightness’ (the more familiar concepts), followed by more detailed descriptions of ‘absence’ and ‘presence’.

Heaviness

Generally, prisons in England and Wales have shed some of their ‘weight’ in recent decades. The culture among uniformed staff has softened, and, in most prisons, life on the landings is more civilized and humane than in the past (see Crewe 2009). None the less, prisoners consistently described public sector prisons as somewhat ‘heavy’ and oppressive. As one prisoner summarized: ‘HMPs have a dark cloud hanging over them. Everything’s grey’.

According to prisoners, this atmosphere was principally produced by the attitudes and behaviour of uniformed staff. Compared to their private sector counterparts, uniformed staff in public sector prisons expressed attitudes

towards prisoners which were more punitive, cynical and disrespectful, and there was a stronger sense among such staff that prisoners were undeserving, irredeemable and unworthy of respect.¹¹

I would never call [prisoners] Mr . . . like you're supposed to do, I won't. [. . .] They don't deserve to be called Mr at all, they are prisoners. [. . .] They are on a punishment, why call them Mr? (Officer, public prison)

The main commitment of the company is the care that we provide in custody, I mean that's your main aim when you're employed here, everybody gets told, we're here to look after them [. . .] It all goes back to rehabilitation again doesn't it. [. . .] In my eyes they're people, they're just . . . they're here for something that they've done, you know, we've all done something bad in our lifetime but they got caught. (Officer, private prison)

Prisoners recognized that some public sector staff considered them morally and socially inferior:

Do you think the staff here are consistent, so do you know where you stand with them?

Yeah.

Where's that?

On the bottom of their shoe. (Prisoner, public prison)

The officers just seem to have issues with the cons, you know, they don't seem to be bothered at all – lazy. (Prisoner, public prison)

'Heaviness' was also manifested in a feeling among prisoners that staff wielded their authority in ways that were needlessly conspicuous or threatening. While complaints about the actual use of force were rare, prisoners in public sector prisons often described staff as 'bullying' or antagonistic, conveying the sense that staff authority had a somewhat malevolent edge:

Some of them are quite reasonable to be honest with you, but others . . . their attitude towards you is . . . it's like bullish and threatening and . . . You know real evil stuff because they've got a key, you know. (Prisoner, public prison)

How do they use their authority as officers here?

To the extreme. They're always there to let you know that they're boss (Prisoner, public prison)

Lightness

In contrast, and especially when highlighting differences between the two sectors, prisoners in privately-managed prisons often emphasized a 'lightness' of experience. In part, this referred to aspects of the regime, such as longer

periods spent out of cell and greater freedom with regard to wearing personal clothing, which provided prisoners with more psychological space to 'be themselves' and feel 'more human':

[In the public sector] they make you go out in all your stripes and all that . . . everyone's wearing the same jeans. Private prisons are more relaxed, you know. You're like a person. In [the public sector] you're definitely a *convict*. (Prisoner, public prison)

[People] definitely prefer to be in this jail than a [public sector prison], I think they definitely feel more comfortable in these surroundings and the things that you get here and the sense of freedom that you've got. (Prisoner, private prison)

Compared to public sector prisons, wages for prison labour were generally higher, and the provision of goods and services was superior. Such conditions made prisoners feel less degraded than those in public sector prisons. Both materially and relationally, private prison environments were more normalized than public sector prisons, contributing to less powerful feelings of de-humanization among prisoners:

In here you're treated as an individual . . . you're a person; in there you're not, you're a number, you're just a piece of meat with a number on it (Prisoner, private prison)

The 'softer' culture that prisoners described was also linked to the routine use of prisoners' first names, and to a more benign staff culture:

I got on with the staff straight away, it was like they didn't look at me . . . as a prisoner, they looked at me as a human being, and I don't look at them as an officer, I look at them as a human being. (Prisoner, private prison)

You're treated like humans . . . you're given chances, staff are a lot more approachable, things seem to be a lot more relaxed. (Prisoner, private prison)

Lightness also related to the imposition of staff authority. As prisoners explained, private sector staff used their power in a less oppressive manner than their public sector equivalents, allowing prisoners more space and freedom to 'withdraw temporarily from authority' (Cohen and Taylor 1972: 80).

[Staff] are a little bit more laid back, they are not on your back all the time . . . as long as you're not doing nothing, they just leave you . . . instead of being on your back for every little thing, 'don't do this, don't do that' . . . like a boot camp. (Prisoner, private prison)

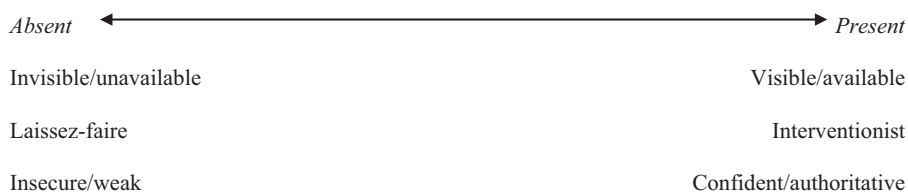
As Figure I illustrates, then, the dimension of 'weight' can be represented on a continuum from heavy to light.

Figure I: The ‘heavy–light’ continuum

Expressed in this way, and as described above, one would expect prisoners to favour prisons that are ‘light’ to those that are ‘heavy’. Yet, in responding to a detailed survey, prisoners in three of the five private sector establishments in our study rated their prison experience consistently more negatively than prisoners in comparable public sector prisons (see Crewe, Liebling and Hulley 2011). Our contention is that, at their most ‘under-weight’, and where staff – and staff authority – were *absent*, private sector prisons provided a less positive environment for prisoners than public sector establishments which were slightly ‘over-weight’ but in which staff power was ‘present’.

Absence–presence

Absence and presence (see Figure II) refer to the availability and visibility of prison staff,¹² the depth and quality of their engagement with prisoners, their willingness and ability to supervise and police prisoner activity, and their competence in using authority. There is a physical or literal aspect to ‘absence–presence’ – based on whether staff are actually *there* – and a more ‘virtual’ yet still palpable dimension: the impression of authority that staff exude, and imprint on the environment. This imprint generates a level of psychological security among prisoners about the shape, potential and boundaries of power.

Figure II: The ‘absent–present’ continuum

‘Absence’

In three of the private prisons in our study – those in which prisoners rated their quality of life as relatively poor – prisoners consistently described

weaknesses in the use of authority. Often, they recounted episodes in which staff had failed to intervene during minor disturbances or prisoner-on-prisoner assaults, instead relying on prisoners to intercede, or exiting the wings entirely:

Since I've been here [I've seen] officers being totally intimidated, the bell going off and officers running off the wings and leaving them to get on with it. (Prisoner, private prison)

When it comes to violence they don't know how to control it [. . .] There was a fight last week, the screws [officers] didn't have a clue what was going on. I hear the screw say 'please stop', they was throwing blows, you know, the guy was on the floor. (Prisoner, private prison)

Such events were embedded in establishment folklore, leaving prisoners anxious about the capacity of staff to handle breakdowns in order and control. These incidents were all the more likely precisely because staff had a rather lenient approach towards rule enforcement, leading to environments that prisoners described as under-controlled and chaotic:

How strictly do they enforce the rules here?

Not at all. [. . .] It is mayhem sometimes. [. . .] They have not got a lot of control. Certain wings, the officers are not running the wings, the lads are. [. . .] It's not good is it? There is no authority really (Prisoner, private prison)

Some staff were intimidated by prisoners, or failed to enact confident authority, leading to their orders being ignored:

I've seen staff here crying before. I've seen staff threatened with serious violence and have to lock the office and they look like they're ready to have a panic attack. (Prisoner, private prison)

Here, because they are young officers, they don't use their authority. They tell you to get behind your door and you say no . . . and you can get away with it. (Prisoner, private prison)

No one really takes any notice of them. They try [. . .] but no-one really listens. [. . .] You can back-chat the staff and nothing really happens. (Prisoner, private prison)

In 'light-absent' prisons, failures to deal appropriately with prisoner transgressions communicated to prisoners the deficiencies of staff power. Prisoners repeatedly noted the inability of staff to project self-assurance; confidence was 'not built inside' them (prisoner, private sector) or symbolized in their demeanour.¹³

I don't think they really know what's going on [in private prisons]. They're just regular people [. . .] there are some serious people in these types of jails. I don't think some of the staff should work in these prisons. (Prisoner, public prison)

I just don't feel they're strong enough characters to stand up for themselves, a lot of them. (Prisoner, private prison)

[In private prisons] you go and ask a screw 'what did you do before you was a screw?', some of them'll say 'yeah, I used to work in Tesco', or 'I was a financial advisor'. In [public sector prison X], a screw, before he was a screw he was in the navy, before [that] he was in the territorial army, he's trained in that agenda and that military kind of environment. (Prisoner, public prison)

As suggested here, that staff were 'just regular people' was not always seen by prisoners as a strength. Prisoners wanted staff to occupy their position as authority-holders, and recognized that it was both illegitimate and undesirable for prisoners to hold more power than the power-holders:

I know three lads that have been in here and the screws are terrified of them . . . that's wrong that, because that's like us running the jail kind of thing, isn't it? (Prisoner, private prison)

They don't want to upset anybody, which is in my book all wrong, because they're supposed to be the ones in power. (Prisoner, private prison)

Likewise, prisoners complained that wing staff were excessively friendly, to the point of permissiveness and confusion:

It's all first names and they're trying to be your friend and they're chatting. There's still a line there, but it's not as visible. That member of staff, he still has to have authority over the inmates obviously. I think there's a lot of confusion for inmates; a lot of them think they can get away with a bit more because they're more friendly, the staff. (Prisoner, private prison)

It's a lot more relaxed [in this prison]. But to be honest I don't really think that's necessarily a good thing. I think as an inmate you need to know where you stand, [. . .] there's a certain line that shouldn't be crossed. You know, you can get confused. (Prisoner, private prison)

The 'absence' of power had implications for prisoner safety, wellbeing and personal development. First, in the absence of clarity and consistency, prisoners resented the ease with which they could find themselves in trouble for breaching invisible boundaries or triggering interventions unintentionally:

It's very vague the rules, so if you start [to] step over the line a bit, it's not like they'll go, 'Hey!'. [. . .] You don't really know where you're going wrong. (Prisoner, private prison)

Second, prisoners in 'light-absent' prisons recognized that a laissez-faire approach towards policing the wings was double-edged. While, in certain respects, it lightened the prison experience and generated fewer conflicts

linked to the frictions of disciplinary severity, it enabled more opportunities for violence and exploitation (see Street 1965):

Well it's just a more relaxed atmosphere here I think, but with that comes all the bullying and things like that you know? [Staff are] not as vigilant as they would be in an HMP. (Prisoner, private prison)

Rather than giving prisoners more space in which to flourish, the relative autonomy granted to prisoners created a milieu that could feel highly insecure. Low staffing levels compounded these sentiments. Prisoners often described the atmosphere of the wings as 'like a council estate', by which they meant unpredictable and under-regulated. Problems between prisoners were an outcome not of staff power weighing down upon prisoners, but from its under-assertion. Described at its most extreme, the resulting environment placed prisoners in an ongoing state of neurosis:

You don't really see [officers] on the wing that much really. [. . .] Say I had trouble with someone, and it was really bad, I could kill them easily on here, very easily, you know what I mean. [. . .] There's a lot of officers in here [who] couldn't defend [or] protect themselves, so how they going to protect inmates? (Prisoner, private prison)

This lack of safety, and the absence of staff support, denied prisoners the 'headspace' and assistance required for their own personal development. Attention was focused on surviving the present rather than planning for the future. Beyond a certain threshold, a potential benefit of 'lightness' – the freedom it affords from institutional power – becomes a major hazard.

Third, prisoners did not welcome an environment that was too permissive. As well as wanting to be protected from their peers, they sought a degree of protection from themselves, particularly as they experimented with new ways of being. As Shapland and Bottoms (2011) explain, good intentions among offenders are often overridden by environmental temptations, and achieving change requires self-control. Light-absent prisons made this kind of self-discipline more difficult. As many prisoners noted, it was 'hard to be good' (prisoner, private sector) – to resist peer pressure or the lure of the drugs economy. Prisoners made frequent reference to the 'weakness of will' that resulted when deficiencies in staff power created 'invitations to trouble' (see Shapland and Bottoms 2011: 277):

They don't put their foot down early enough, so when an inmate sees that then he just has to take advantage. (Prisoner, private prison)

[Prisoners] are not stupid, they've manipulated people through the system throughout their lives, that's what they know best, so if they see a loophole they're going to use that loophole to get what they want. (Prisoner, private prison)

Fourth, ‘freedom’ from staff interference was often accompanied by a lack of staff support:

When you’re on a wing, yeah, you can do what you want, know what I mean, [. . .]. As long as you don’t need their help to do it, you can do what you want. (Prisoner, private prison)

Staff were either ‘hands-off’ in running the wings, or lacked the professional knowledge and life experience that prisoners sought out in order to navigate the prison system and make important life decisions. Some prisoners characterized light-absent prisons as ‘a good place to kill time, but a bad place to progress’. The fact that private sector staff were ‘normal guys off the streets’ meant that they were generally ‘not as clued up’ as public sector staff (prisoner, private sector), who were better able to inhabit roles as mentors or parental surrogates. In the private sector, younger and less experienced staff, thinner staffing levels, and staff who were ‘friendly’ rather than supportively detached, meant that wisdom and guidance were harder to access.

Overall, then, it is important to reiterate that prisoners themselves recognized that the under-use of power in prison had negative consequences, and that its use was often necessary, desirable, and legitimate:

It might well be unpleasant to say, if you have been treated badly by authority, but you need authority in life. (Prisoner, public prison)

I think for everything to run properly there has to be rules, and those rules to a certain degree have to be kept, right? If somebody asks you to do something here and you say ‘no I’m not doing it’, [. . .] then they should be able to have the power and weight behind them to actually to enforce it. (Prisoner, private prison)

‘Presence’

Although some prisoners described public sector establishments as ‘people factories’ – impersonal, austere and mechanical – most valued the fact that, in such prisons, staff were reliable, rules were clear and decisions were consistent (see also Toch 1977):

You’ll have a bit more respect for the officers in HMP than in here because they earn it, they do the work that they’re meant to do and then obviously you know where you stand with them. (Prisoner, private prison)

For prisoners who were vulnerable, trust in the predictability of the environment was especially important. Having some certainty about daily routines, and schedules for activity, association and ‘bang-up’, prevented feelings of being ‘unsettled’, which could build into more significant fears. Prisoners in the public sector prisons also expressed faith that staff could handle serious

incidents of violence or disorder, that officers had a confident grip on institutional order, and that they were generally competent:

How do they use their authority here?

Wisely.

So [it's] not over or under used then?

Just about right. It's more controlled here. More professional.

How strictly do officers enforce the rules here?

Erm, pretty good really, from what I've seen. [. . .] They treat us all more or less the same. [. . .] When something happens here, it can be pretty serious but the way in which it gets dealt with is different. [In private prison X] it was a joke. (Prisoner, public prison)

Ultimately I've always found the officers in an HMP compared to the officers here more in control, control of the situation, control of the jail, control of they know what they are doing. (Prisoner, private prison)

Public sector staff were considered more secure in their own authority:

A lot of staff in my last [public sector] jail, where they're either ex-services, ex-military, ex-police, ex-fireman, they were used to giving orders and they were used to having those orders obeyed, simple as that. (Prisoner, private prison)

While, in some prisons, this expectation of obedience could be somewhat 'heavy', it could also ensure a more stable environment. By intervening assuredly to challenge behaviour, officers reinforced to prisoners both their willingness and ability to 'draw the line'. At their best, they warned prisoners clearly about the likely consequences of their behaviour, and – following disciplinary interventions – explained why they had chosen particular courses of action. As a result of this kind of 'supportive limit-setting' (Wachtel and McCold 2001), prisoners soon learned which behaviours were and were not tolerated, diminishing the possibility that they could get into trouble inadvertently, reducing the likelihood of boundary-testing, and lessening the chance that they would risk trying to assault or exploit other prisoners.

The vigilant presence of staff on the wings meant that assaults and disturbances were less likely. Interpersonal problems between prisoners were inhibited by the physical attendance of staff, and by their skilled reading of prisoner activities. Staff presence also had an important reassurance function. Just as 'visible policing' on the streets can provide a sense of security, prisoners' feelings of psychological safety were enhanced by staff being watchful and approachable, and by their willingness to intervene promptly:

What keeps things calm and ordered here?

The way that the prison officers control the situation quickly. If they can demonstrate to the prisoner that they are in control of any given situation,

no matter how big or small, if they can show that they're in control [. . .] then it calms down large numbers of prisoners. (Prisoner, public prison)

How do officers tend to deal with things when they kick off in the wings?

Two words that immediately come to mind are quickly and efficiently. [. . .]

It's reassuring from my perspective. (Prisoner, public prison)

Many prisoners expressed a clear preference for this more interventionist strategy of policing:

[Public sector imprisonment] is a lot more relaxed than private. It's horrible in private; you never know what is going to happen. Always fighting. Always bullying. (Prisoner, public prison)

Here, the use of the term 'relaxed' is striking, because it seems counter-intuitive to associate a 'heavier' prison with a less oppressive culture. But since relations between prisoners are an important aspect of 'weight' (Downes 1988), and need to be policed, prisoners can feel freer (as well as safer) in an environment that is slightly over-supervised than in one that is somewhat under-supervised. Once prisoners were persuaded that they could rely on staff, they could go about their lives feeling less anxious about what would happen were there to be a breach of order and control. Knowing that staff held power in reserve was liberating: 'I think as and when necessary they could use their power', said one prisoner approvingly. Others commented as follows:

They are not too quick to use their authority, but they will, there is no lack of authority within the staff body. (Prisoner, public prison)

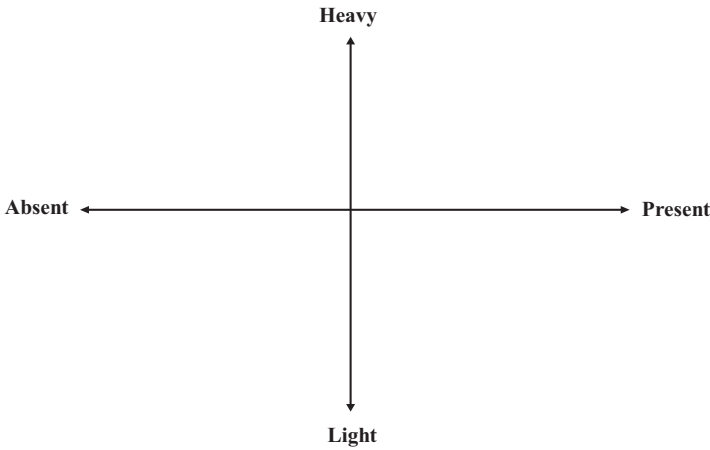
If things were to happen and they wanted to stamp their authority, then they could do that, but I don't think that is what they would do first and foremost, I think there are other ways they deal with things before. (Prisoner, public prison)

As expressed here, prisoners preferred officers to use informal means to resolve problems, but wanted to be sure that further measures could be used if required. In the public sector prisons, prisoners generally felt that staff were good at gauging when to deploy power and when to hold back. As a result, the under-use of power was generally interpreted as the 'skilled use of discretion' (Liebling and Price 2001: 124); by contrast, in the 'light-absent' private sector prisons, it was more often seen as a form of avoidance (see Gilbert 1997), or an 'omission of duty' (Liebling and Price 2001: 124).

Heavy–light, absent–present

Thus far, we have discussed the two quadrants in our model which were represented empirically in our research – both public sector prisons being

Figure III: 'Heavy-light, absent-present'



somewhat 'heavy-present', and all five private sector prisons being 'light-absent', albeit to very different degrees. Our overall model is shown in Figure III.

In England and Wales, the two remaining positions are less common, and we will comment on them only briefly. Some high-security prisons are 'heavy-absent', their oppressiveness a result of restrictive security measures and the retreat of staff from the landings in the face of unfamiliar prisoner groups and anxieties about the limits of their own power (Liebling, Arnold and Straub 2012). This form of imprisonment is arguably the least legitimate because it subjects prisoners to much of its weight, but few of its protections. Even when a prison is safe and procedurally efficient, if it achieves such goals through a regime of segregation and sterile service delivery, it is far from the kind of interpersonally legitimate institution that is represented by our light-present quadrant.

This point is important in differentiating our conclusions from those offered by DiIulio. While we share his concern about the risks of staff under-using their power, our argument is that there is a *relational* solution, which is both ordered and legitimate. When prison officers are at their best, in 'light-present' establishments, they use their discretion judiciously, as a form of managed peace-keeping, based in part on 'knowing their prisoners' i.e. their needs, norms and preferences. Outcomes are achieved actively but unobtrusively, without the need for those in authority to bare their coercive teeth. Power is on hand, but, for the most part (and as a result) it does not need to be directly employed. This might be referred to as 'dynamic authority' (Liebling 2011), a form that takes effect prior to disciplinary action, and thereby obviates its necessity.

This might be the holy grail of prison management, and it is a standard which few prisons meet. Those that get closest tend to be therapeutically oriented

(e.g., see Genders and Player 1995), or are small, well-staffed units, such as the two Special Units which operated in Scotland from the early 1970s until the mid 1990s (e.g. see Bottomley, Liebling and Sparks 1994). Described in a range of literature (e.g. Bottomley and Hay 1991; Boyle 1984; Cooke 1989), these types of units have (at times) been characterized by genuinely deep and respectful staff–prisoner relationships, which are close without being collusive, and by regimes which grant prisoners a high level of autonomy while holding them ‘responsible for their own behaviour and that of their peers’ (Cooke 1989: 129). Such units should be of more interest to scholars (and practitioners) of penal power.

Implications

We have highlighted some characteristic differences between the public and private sectors, which are worthy of further comment. While ‘presence’ is an under-recognized strength of many public sector prisons, ‘absence’ is a significant and structural risk in private sector establishments, and characterized all of the private prisons in our study, despite the significant variations in their quality. Officers were encouraged to exercise authority somewhat lightly, as some senior managers acknowledged. One former private sector manager explained that order was instead accomplished through ‘buying off’ prisoners with material incentives:

The staff are kind of under siege and of course the way we mitigated that, the way we enhanced the safety of the staff, wasn’t by giving them more staff, because that was impossible [financially]. What we did was we [...] appeased the prisoners, so we gave them a fantastic shop, where they can buy all manner of stuff, we gave them extra money to be allowed to spend, they had mega, mega cheap phone calls. [...] the idea was to make it attractive enough for the eighty percent of them who had the cognitive skills to think ahead enough to realize that it’ll be much worse to be sent to [public prison X], than staying here. They would [then] keep the idiots down.

Here, we see some potential consequences of relying on a low-cost, inducement-based model of penal management. These risks are particularly high in privately run prisons, where financial pressures often result in a workforce that is poorly paid, inexperienced, and only loosely bonded to the profession (see Useem and Goldstone 2002: 519). Compared to Long Lartin, where well-resourced and confident staff were deliberately providing a ‘lighter’ model of long-term imprisonment (see Sparks and Bottoms 1995: 57), in some private sector prisons, the under-use of power is less self-conscious, reflecting a lack of know-how, confidence or resourcing. That new forms of order in prison may have a public–private dimension is a finding worthy of

future research. Even if the pace of prison privatization slows, the re-structuring of public sector prisons to resemble the private sector staffing model makes it likely that 'absence' will begin to feature in state-run as well as privately-managed establishments.

There may also be implications for non-penal institutions that are being designed according to a similar blueprint, in which the excesses of state paternalism are being replaced by a model of customer service which purports to 'empower' consumers in part by disempowering staff. Reductions in staff numbers, less secure conditions of employment, and targeted hiring strategies create a powerless workforce, enabling the replacement of a sometimes sclerotic public sector staff culture with a contractual ethos that is more responsive to the demands both of managers and consumers. This transfer of power from the labour force to the customer clearly has some benefits. To adopt Le Grand's (2003) terminology, where it works, passive or powerless recipients ('pawns') of services are transformed into active consumers ('queens'), with more choice, voice and control. But, as we have suggested, retracting the firm, guiding hand of state control and prescription, and thus lightening the experience of service-use or institutional power, may leave those with a less developed capacity to exercise qualified choices or navigate the system somewhat helpless, especially compared to citizens who have 'louder voices . . . better contacts and sharper elbows' (Le Grand 2007: 32–3). Here, we are thinking not just about the domains of education, health, and welfare, but also the public service markets which have been most opened up to private sector competition: immigration control, court and custody services, transport networks, and 'facilities management' (including catering, cleaning and reception services). It is in these areas, where the direct interface between the frontline worker and the free (or un-free) citizen is one of the primary determinants of state and institutional legitimacy, that we find the most significant examples of neo-liberal organizational transformation.

Conclusion

One of the main aims of this article has been to clarify and develop the concept of 'weight' in prison by outlining related concepts of 'lightness' 'absence' and 'presence'. In their original formulations of 'weight', many of the burdens described by Downes (1988) and King and McDermott (1995) were outcomes of staff *imposing* their power upon prisoners. Downes argued that, where relations between prisoners were tense or conflictual, this was partly because of factors such as minimal rights and 'restrictive discipline' (1995: 169). Problems between prisoners were caused by an *excess* of institutional power, either its provocations or its oppressively punitive texture. We have argued, among other things, that deficits in institutional power are problematic in different

ways, leading to forms of frustration, exasperation and insecurity. Some of these problems relate to issues of support and self-control. Others are to do with prisoners' relationships with each other – the kinds of hostilities and predations that are more easily acted upon when staff power is 'absent'.

Whether prisoners are more fearful of the tyranny of their peers or the tyranny of staff, whether they would rather be in an environment that is slightly under-policed or rather over-regulated, will depend on preferences for autonomy, safety and structure which relate to characteristics that pre-date their incarceration (Toch 1977; Irwin 1980). Some prisoners – albeit a minority – enjoy light-absent environments because of the opportunities they afford for them to engage relatively freely in exploitation and drug dealing. Certainly, though, most prisoners appreciate the potentially positive consequences of the use of 'good' power in prison.

Globally, our portrayal of light-absent prisons resonates with the low-staff, low-resource model of imprisonment found in developing economies. In some of these jurisdictions beleaguered prison staff do little more than police the prison's exterior, allowing prisoners to regulate each other in ways that we would consider illegitimate. Prisoners' views are more mixed, especially in places where the authority of the State is also considered illegitimate (see Symkovych 2011; King 2008). In other penal contexts, prisoners strongly contest the uses of power that we have described: paramilitary prisoners in Northern Ireland during the 1970s and 80s, for example, had no desire to be policed by prison staff, in part because they had little to fear from their peers, and because they had no wish to be 'reformed' (McEvoy 2001). These considerations suggest a complexity to evaluations of prison quality and legitimacy, highlight some of the limits of our framework, and reinforce the need to engage carefully with data and contextual settings when analysing the use of power in prison.

(Date accepted: October 2013)

Notes

1. The empirical research on which this article draws was funded by the Economic and Social Research Council (RES-062-23-0212). We are grateful for their support, and to Richard Sparks and Tony Bottoms, for their comments on this article and for talking us through some of the recent developments in the legitimacy literature.

2. Appearing to anticipate King and McDermott's modification, Downes (1992: 201) later defined 'depth' as 'the openness of

the prison life to the outside world, both in terms of the actual opportunities for contact with family and friends by visits, home leave, letters and the telephone, and also by the permeating of the institution by the outside world agencies, whether recreational (visiting pop groups, etc.), informational (access to the media, newspapers, etc.) or social (visits by students, politicians, academics, etc.)' (Downes 1992: 15–16).

3. Note, however, Sparks et al.'s description of the illegitimate treatment of

vulnerable prisoners in the dedicated vulnerable prisoner unit at Albany.

4. The term 'dispersal prison' signifies the decision to 'disperse' prisoners requiring the highest security measures among lower security prisoners, rather than concentrate them within a single, highly fortified establishment.

5. Whether prisoners endorsed this shift is hard to gauge, not least because some prisoners clearly benefited more, and some less, from the more open regime embodied by Long Lartin. As one prisoner recently explained, when prisoners 'ran the wings' (in one of the high-security prisons in the 1990s), non-conformity with the (prisoner) rules led to forms of 'informal justice', such as stabbings. After staff regained control of the prison, the sanctions for non-conformity with the (official) rules were formal punishments, such as segregation: 'I preferred it when it was run by prisoners, but that was probably because I wasn't one of the people who got on the wrong side of the people who laid down the rules' (personal communication, paraphrased, 20/2/2012).

6. Some aspects of liberal practice in high security prisons post- a series of major disturbances and the Woolf Report into their causes were understandably linked to a misreading of the concept of justice-in-practice and its confusion with laxity (see Liebling, assisted by Arnold 2004).

7. The other way in which this hostility to power is represented in some strands of the penal literature is in the unbalanced representation of prison officers as 'thick' and authoritarian brutes – 'Outside on the landing sit the plebs' (see Cohen and Taylor 1972: 33). We say this not to diminish the dangers of power abuses in prison, but because it is an incomplete and distorted representation of powerholders.

8. The detailed results of this evaluation are reported elsewhere (Crewe, Liebling and Hulley in press), and we do not seek to rehearse them here. Our aim instead is to highlight the characteristic 'feel' of the two sectors and to draw on this observation in order to reflect upon the experience of imprisonment more broadly.

9. Uniformed staff are much more likely to have experienced work in only one of the two sectors.

10. While it is clear that the surveys primarily constitute an empirical (audience) measure of legitimacy, because they arose from grounded conversation with prisoners about 'what mattered', they also resonated conceptually with the literature in political and humanistic philosophy on justice and humanity. In that sense, we would argue that they represent a normative as well as empirical measure of legitimacy (see Liebling, assisted by Arnold 2004).

11. None of the uniformed staff who we surveyed in one of the public sector prisons agreed with the item 'most prisoners are decent people', compared to 19 per cent in its private sector comparator. Twice as many private as public sector staff agreed with the item 'most prisoners can be rehabilitated'.

12. That is, 'officers' and senior officers in the public sector, and 'custody officers' and unit managers in the private sector.

13. Compared to their public sector counterparts, fewer private sector officers had entered prison work from the armed services, and it was noticeable that their prior employment histories more often involved service sector work. The average age of uniformed staff in the private sector prisons was also lower – 35 compared to 40 (see Liebling et al. 2011).

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