

Imprisonment and prisoner re-entry in Australia

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The aims of this brief commentary are twofold. First, I want to offer a snapshot of the prison population in Australia and to make specific reference to the situation pertaining to Indigenous persons. Second, I want to comment on the connection between imprisonment and post-release life (the process of re-entry) in the Australian context. As shall be seen, Australia—although still arguably a ‘low incarcerating nation’—is steadily moving towards an imprisonment rate that may soon require this apparently benign descriptor to be revised. The rise in prisoner numbers, of course, has less to do with more people doing more crime than it relates to changes in the intensity with which particular types of offences are policed (especially breaches of court orders) matched with increases in the numbers of prisoners serving longer sentences. Both these scenarios fundamentally impact the process of re-entry—the former by bringing more people into the system for shorter periods thereby placing more pressure on scant post-release services and resources and the other by delaying the process of re-entry thereby further entrenching the process of institutionalisation and the likelihood of recidivism.

Australian prison population

As at 30 June 2009 (the date of the annual prisoner census conducted by the Australian Bureau of Statistics (ABS)), the number of prisoners in Australia was 29,317 equating to a national imprisonment rate of 174.7 per 100,000 relevant (adult) population¹ (ABS 2009a, Tables 3.1, 3.4). With the exception of small

¹ Unless otherwise indicated, the rate of imprisonment is expressed per 100,000 relevant population where ‘relevant population’ means the total number of persons residing in Australia eligible to be

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decreases in 1984 and 2002, the rate of imprisonment in Australia has been steadily rising since 1982. In fact, the *prison population has tripled* since that time and the *imprisonment rate has almost doubled* (89.8 per 100,000 population in 1982 compared with 174.7 in 2009) (Carcach and Grant 1999; ABS 2002, Table 16).² For males aged 25–29—the age cohort exhibiting the most prisoners—the rate of imprisonment at 30 June 2009 was 640.4 per 100,000 (ABS 2009a, Table 2.3). When stratified according to Indigeneity, a far worse story emerges. As at 30 June 2009, *Indigenous males aged 25–29 were imprisoned at the rate of 6974.6 per 100,000*. This must surely rate as one of—if not the highest—rate of incarceration for any cohort of persons in the western world. The rate for non-Indigenous males aged 25–29 was 465.4 per relevant population or 15 times less than the Indigenous rate of imprisonment (ABS 2009a, Table 4.4). Since 2000, the overall age standardised Indigenous rate of imprisonment has increased by one-third (33.8%) whilst the non-Indigenous rate has increased by less than 5% (ABS 2009a, Table 4.2). Overall, the age standardised rate of imprisonment for Indigenous peoples at 30 June 2009 was 1,891 per 100,000 (compared with 136 for non-Indigenous persons) (ABS 2009a, p. 47). This gives an age standardised ratio of 14 imprisoned Indigenous adults for each non-Indigenous imprisoned adult at such time (ABS 2009a, Table 4.2). For the past decade, the proportion of prisoners who had served at least one period of imprisonment prior to their current episode has averaged 58% (ABS 2009a, Table 2.2). Of those prisoners released during 2005/06, 38.2% returned to prison within 2 years to serve a new custodial sentence—a figure which has remained constant for many years. This rate of return increases to 44% when returns by prisoners to corrective services (prisons and community corrections) are accounted for (SCRGSP 2009, Table C.1). Of those discharged from a community corrections order during 2005/06, 17.5% received a new community corrections order within 2 years of being discharged. Of the same community corrections cohort, 27.9% returned to either prison or community corrections to serve a new sentence within the first 24 months of release (SCRGSP 2009, Table C.3). In 2007/08, there were, on average, 54,914 persons serving a community corrections order. This equated to a rate of 337.5 per 100,000 population (SCRGSP 2009, p. 8.9). Indigenous persons are again grossly over-represented in relation to community-based sanctions participating at a rate of 2,924 per 100,000 as against a non-Indigenous participation rate of 265 per 100,000 for the year 2005/06

Footnote 1 continued

remanded within or sentenced to an adult custodial facility. Generally speaking this means all persons aged 18 and above (with the exception of Queensland where persons aged 17 and above are remanded or sentenced to prison). The imprisonment rate cited here is therefore higher than that cited by such institutions as the International Centre for Prison Studies, Kings College, London, which relays rates according to the total population of particular countries.

² The real recurrent expenditure on Australian prisons for 2007/08 was just over \$2 billion (\$2,014,785,000)—a 20% increase on expenditure for 2003/04 (Steering Committee for the Review of Government Service Provision (SCRGSP) 2009, Table 8A.8). Real recurrent expenditure on community corrections for 2007/08 totalled just over \$263 million (\$263,356,000)—a 13% increase on that spent in 2003/04 (SCRGSP 2009, Table 8A.10). The cost of keeping someone in prison in 2008/09 averaged \$207 per day compared with \$13 per day for those persons on a community corrections order (SCRGSP 2009, Table 8A.11).

(Australian Institute of Criminology (AIC) 2008, p. 101). From July 1999 through the end of 2008, the overall community corrections rate has fallen from 402 per 100,000 (AIC 2005) to 337 (ABS 2009b, p. 27). This is, as illustrated previously, in stark contrast to the sharp rise in the rate of imprisonment over the same period.

Beyond the shameful and long manifested over-representation of Indigenous persons within the correctional system, what all this demonstrates is the grossly disproportionate relationship between annual “natural” changes in the population of persons who are eligible to be sentenced to prison (changes relating, for instance, to fertility and mortality rates, rates of immigration and size of various age cohorts) as against the actual proportion of persons incarcerated over a given period. Put simply, *the numbers of people sentenced or remanded to prison have significantly outstripped correlative percentage changes in the number of adult Australians eligible to be incarcerated for all but two of the past 28 years*. Another important factor impacting the rise in prison numbers is the sentencing of offenders. From 1999 to 2009, the median sentence length has remained predominantly static at 3 years. However, the proportion of sentenced offenders serving less than 1 year has fallen from 21.3 to 15.6% of that population. Correlatively, the proportion of offenders serving between 1 and 5 years has increased from 35.8 to 43.4% over the same period. In addition, the proportion of persons with an aggregate sentence of 10 years or more has also risen marginally over that time (ABS 2009a, Table 3.10). More people, in other words, are staying in prison longer. The situation with regard to unsentenced offenders has also changed substantially with a 50% increase in remandees (3,206–6,393 persons) over the period 1999–2009. For the same period, the number of sentenced offenders increased by just 20% (18,332–22,924 persons) (ABS 2009a, Table 2.2).

Prisoner re-entry

‘There are no reliable data on the numbers of prisoners being released into the [Australian] community each year’ (Baldry et al. 2006, p. 21). One study puts the estimate for 2001 at 43,000 (cited in Baldry et al. 2006, p. 21). The figure for 2009 would be substantially higher than this. Statistics published in successive annual reports of the South Australian Department for Correctional Services (SADCS) put annual intakes and discharges at very similar proportions (and there is no evidence to suggest this is an anomalous occurrence compared with other Australian states and territories). By way of example, South Australia’s average daily prison population for 2007/08 was 1,855 persons, with total intakes for that period at 4,126 and total discharges at 4,177 (SADCS 2008, p. 138). Given a national prison population of 29,000 persons, this would (using a ratio of two discharges for each intake) put the number of persons released from prison each year (off sentence and remand) at just under 60,000 persons.

The challenges posed by prisoner re-entry in Australia are, in the manner of the US, the UK and elsewhere, complex and chronic. At least, that is what two centuries of incarceration and prisoner ‘management’ in Australia has made of the issue. Arguably, prisoner re-entry need not be complex and it need not have evolved into a

chronic problem. With the exception of a proliferation of opportunities for crime as well as fluctuations in the prevalence and types of drugs within and across communities, the factors underpinning offending have remained largely static through time. Any comparison of the circumstances and motivations of offenders sentenced to hard labour or transportation in the eighteenth and nineteenth centuries to the circumstances and motivations of those who make up most of Australia's prison population today will, generally speaking, bear this out.³ Prisons are undeniably geared towards the reception of those who unfairly bear the burden of intergenerational economic marginalisation (Reiman 1979) and, in many instances, the traumas of separation and abuse suffered as a result of racist policies (Cunneen 2008). Similarly, with the exceptions of introducing parole as a custodial option, the impact of various offender risk-need instruments (or what Foucault termed, the proliferation of the 'psy-complex' within offender management) and the disproportionate preponderance of 'new' kinds of infectious diseases (particularly Hepatitis C) within prison populations, the challenges faced by those released from prison have also remained fundamentally of the same kind for many years (Petersilia 2003). This is not to suggest that a young man in his mid-twenties released from Auburn Penitentiary in New York in the early nineteenth century would face precisely the same issues as a young man released from Pentonville in London in the early twentieth century. Or that someone released from Long Bay in New South Wales at the turn of the twenty-first century would face precisely the same issues as those walking out of Pentonville. They would not. At the very least, the labour market would be distinct in each period, the range of organisations devoted to assisting prisoners post-release would also be in contrast (or non-existent), and the means by which the state could monitor persons following release in each of these centuries would also be markedly different. But several things would be salient to most ex-incarcerates.

Each would have to deal with varying levels of stigma and all the problems this poses for those trying to start anew. Each would need shelter, food and a legitimate means of providing for themselves and any dependants. Each would need to be buoyed by occasional or more persistent encouragement from significant others that they can indeed forge a new life for themselves in spite of what they had endured. More abstractly, but no less importantly, each would need to be afforded an initial quantum of dignity and respect in order to know that they are (or could become) a valued and trusted member of the relevant community (borough, neighbourhood,

³ For example, the accounts of prisoners' lives given in Mayhew and Binney's (1971 [1862]) *Criminal prisons of London*, first published in 1862, show that prisons were overwhelmingly places for the confinement of males convicted of property offences (acquisitive crimes), for those without homes, for the mentally disturbed ("lunatics"), for those without food, without work, and for those with very little or no education. Such work also relates that just under 40% of persons returned to various prisons shortly after release. A report published by the Australian Government in 2003 states that 'Over half (56 per cent) of all prisoners are males between 20 and 35 years of age [and that] [b]efore incarceration, these men are often socially and economically disadvantaged and often unemployed. A significant proportion of male prisoners are also not functionally literate ... and ... up to 20% of the New South Wales prison population could have an intellectual disability' (Woodward 2003, p. 4). Further, just over half of all persons serving a prison sentence in Australia during 2008 recorded their most serious offence as property/non-violent or drug related (ABS 2009, Table 2.7).

suburb). This all sounds, on the face of it, like a fairly straight-forward combination or sequence of events—one that could be more or less easily put in train given the right mix of resources, planning and policy. However, there are, quite clearly, many factors working against the meaningful and sustained connection of ex-prisoners to each and/or all of these things. Some of these complicating factors have to do with unresolved drug and alcohol dependence, long-term physical or psychological trauma or the inability (more likely, the right opportunity or context) to resist the overtures of persons still entrenched within criminal lifestyles. But many of the factors that impact negatively on the re-entry process stem from the operation of the criminal justice system itself. Take parole conditions. All parolees in South Australia are subject, upon release, to a standard set of conditions such as being prohibited from owning or possessing an offensive weapon, consuming alcohol or other illegal drugs, entering a licensed premise and so forth. Some parolees are also subject to designated conditions (such as urine test and breath test) which if breached lead to automatic cancellation of parole and re-imprisonment (South Australia, *Correctional Services Act 1982*, Part 6, Division 3, Section 68, Version 1.2.2010). There is good evidence to suggest that the very nature of parole conditions set many parolees up for failure. Even the so-called less rigid standard conditions command a very high measure of self-responsibility (emphasis on internal locus of control) from those who have been structurally precluded from so acting for long periods whilst incarcerated (emphasis on external locus of control). The following excerpts⁴ speak to this notion and to the ways in which parole conditions work to undermine the basic rituals of sociality common to everyday life.

Participant: ... I'm actually out on parole... [until] 2013

Interviewer: So can you explain the conditions that are attached to that parole?

Participant: [G]ot to report in once a week... Reside at this address. I'm not to drive a motor vehicle without a licence, or... have possession of a firearm... And not to drink or use drugs

Interviewer: Right. And when it says not to drink or use drugs, that means what? They expect you not to have any alcohol at all, not even a... glass of beer on any particular day?

Participant: Nothing

Interviewer: What do you think about those conditions?

Participant: Not reasonable. Like, the drinking one... Like, I've actually spoke to my parole officer, and they're going to write into the Parole Board and ask them if I could have two drinks a day, so... my alcohol limit can be 0.05... If it's over 0.05, then I get breached... If I go [to a restaurant and have drink and] get caught, I go back in... Just [for] going out for dinner

The conflicting messages conveyed through drug and alcohol programs in prison (based predominantly on harm minimisation philosophies) as against the

⁴ These excerpts stem from interviews for the ongoing project, *Generativity in young male ex(prisoners): Caring for self, other and future within prison and beyond*. Funding for this study (DP0984562) is funded by the Australian Research Council for which the author is most grateful.

administrative restrictions built into the conditions of parole (based on zero tolerance/abstinence models to alcohol and other drug use) only serve to add to the confusion and perceived punitiveness of the re-entry experience. The problem of license disqualification is also a major issue for many parolees who are expected to attend programs, find work and have some kind of pro-social routine often without any form of independent mobility.

Participant: ... I'll be straightforward: I don't think I'm going to go to work today. I don't think I will be going to work. I can't really get there. I can't get [my fiancée] to take me. Like, [she] can take me, but then,... at quarter to 11 [at night], she's got to [wake the kids up and] get them... out of bed to, you know, come and pick me up ... That's why I've got that motorised... pushbike thing... [But] it broke down ... So if I don't get that part today, well, I don't think I will be going to work, because ... it's unfair [on her and the kids]. Like [I said], [we've] got to get the girls up at quarter to 11, and [the youngest one has] got kindy [i.e. kindergarten] tomorrow

Whether one speaks of the capacity to have a drink with one's friends or the ability to legally drive to or from work, these are more than just minor inconveniences in peoples' lives. Rather, they present to parolees as further reminders of the fact that they are outsiders to mainstream society and that the path (back) to becoming an insider is long, frustrating and sometimes downright impossible to contemplate let alone endure. Re-entry, in short, is too often imagined to be an exclusively 'individual' journey authored solely by the quantum of commitment of the parolee instead of as a collective process whose quality or progress is not always reducible to short-term bureaucratically measured outputs (clean urine tests, zero blood alcohol levels, good program attendance, etc.). It is, as Foucault (1980, p. 42) correctly identified, as if one is confronted with or caught up in a system which from its core is geared towards the reproduction of a 'closed milieu of delinquency, thoroughly structured by the police' and, arguably, by the machinations of courts and corrections. Nikolas Rose (2000, p. 336), extending Foucault's sentiment, remarks,

Exclusion itself is effectively criminalized, as crime control agencies home in on those very violations that enable survival in the circuits of exclusion: petty theft, drinking alcohol in public, loitering, drugs and so forth. These new circuits cycle individuals from probation to prison because of probation violations, from prison to parole, and back to prison because of parole violations.

In 2007, one in ten prisoners in Australia were sentenced—as their most serious offence—for breach of court order, breach of parole and similar administrative crimes (AIC 2008, p. 92). In South Australia, in 2004, 'The most prominent offence type for which sentenced prisoners were being held just prior to their discharge was that of *offences against justice procedures* [essentially breaches of probation or parole]. These were listed as the major offence in 31.0% of the discharges where the type of offence was recorded, followed by *serious criminal trespass* (12.9%) and

license/registration offences (9.2%)’ (Conroy 2006, p. 6, emphasis in original). Of the 1,381 *sentenced* discharges from South Australian prisons over the period 1 July 2007 to 30 June 2008, 46% were serving time for license and registration offences (14% or 193 discharges) or offences against justice procedures (33% or 444 discharges) (SADCS 2008, p. 137). There is a twofold phenomenon occurring here with regard to re-entry. On the one hand, there is a cohort of persons who continue to be wedded to the state through various orders (parole, bail, probation and home detention) after release from prison and therefore to all the problems of surveillance, reporting and monitoring that this often entails. In South Australia, these account for just under one-third of persons so released each year. On the other hand, there is a larger cohort of persons released without recourse to any order (and, with the exception of unwarranted police attention, to few of the problems previously mentioned) but who subsequently receive little or no structured support from the state as they attempt to rebuild their lives. These account for around 70% of prisoners released each year in South Australia (SADCS 2008, p. 138). In a state where the weekly allowance paid to prisoners is just \$12, where even the best paid prison work permits only an additional \$30 per week and where a 10-min call to a mobile phone costs around \$3, most prisoners are released with a meagre sum to their name. Most are released with little improvement in their educational qualifications or skill set. Many are released with unresolved drug and alcohol problems. And many have little prospect of attaining stable and safe accommodation (see Halsey 2006, 2007a, b, 2008a, b, c; Halsey and Armitage 2009).

The cyclical relationship—one might even say, pathological interdependency—between prison and parole (or what I have elsewhere termed the ‘incarceration-release-reincarceration machine’ (Halsey 2007a, p. 1249)) is starkly apparent. It is not that the milieu of delinquency or criminality is closed in the sense that no new unique individuals ever enter or exit—for they do. Rather, it is closed in the sense that the milieu forever gives force to a largely predictable and repeated pattern of release and re-imprisonment. The contents of this milieu may differ over time (although the same family names surely cycle through its dimensions) but its form stays generally the same. Garland (1991, p. 138) explicates the political dimensions of this milieu observing that,

The creation of a recidivist delinquent class is deemed to be useful in a strategy of political domination because it works to separate crime from politics, to divide the working classes against themselves, to enhance their fear of prison, and to guarantee the authority and power of the police. By creating a well-defined delinquent class, the prison ensures that habitual criminals are known to the authorities and can be more easily managed, while the powers of surveillance, which this group necessitates, can be easily used for wider political purposes ... [T]he prison does not control the criminal so much as control the working class by creating the criminal ...

In a sense, this is what the young man writing from his cell in Yatala Labour Prison, and whose perspective is reproduced in this issue, is getting at. He knows his status as a convicted and repeat incarcerate is politically and systemically functional—it fits the logic, the needs and the emergent design of the ‘Prison

Industrial Complex'. His potential status as a non-violent and valued member of the wider community, however, is firmly at odds with the continued operation and expansion of this Complex. As he remarks, '[T]hey aint going to work in an empty prison[.] So they love it when ya end up back where ya started'. Not infrequently prisoners have told of officers who gamble on predicted survival times of those released. Here, prisons, prisoners and the community form a circuit sustained by the current of nihilism that ostensibly has no off switch. It is a vision of imprisonment which admits of little or no hope of new beginnings for those released from its confines or 'care'. This is not to say that many ex-prisoners do not stay out of prison and progress to lead productive lives. They do. But their success is rarely linked to what the Prison Industrial Complex has done positively, consistently and respectfully with or for them so much as what it has done negatively, occasionally and begrudgingly *to* them. Prisoners are endlessly subjected to all manner of routines and programs which, on the best available evidence, make little or no difference to their prospects of leading more or less conventional lives on release.

The (latent) function of rehabilitation programs, therefore, is to create the illusion of a responsive, risk-attuned and 'caring' correctional apparatus. And yet we all know that prisoners do not get motivated to change by programming alone, or by being paid \$1.50 an hour for doing quite menial and repetitive tasks.⁵ My point here, to take the lead of McNeill (2009, p. 28) and others, is that the 'between the ears' brand of intervention (Cognitive Behavioural Therapy, Anger Management, etc.) which has so transfixed corrections needs to be solidly matched by *practical opportunities* to transform or change (ex)prisoners' lives. For example, one does not learn how to drive merely by being motivated to learn to drive, or by watching other drivers, or by listening to other drivers explain how it is done or by being asked to drive in permanently 'simulated' conditions. The way each of us ultimately joins the world of 'competent drivers' is by repeatedly and successfully driving in real traffic (which sometimes means making mistakes—hitting the kerb or even another vehicle). It is no different in the case of becoming, say, an accomplished armed robber. One does not simply listen to people talk about doing stick-ups or rely exclusively on being motivated to commit an armed robbery. Rather, to join the world of competent armed offenders, one needs to actually commit armed robbery. Thinking about this in reverse (or 'through the looking glass' as Maruna et al. (2004) have put it), for an armed robber to cease this activity and to join the world of, say, competent tyre fitters, carpenters or teachers, she/he needs not only to be motivated, or to hear from others how these things are done or to become adept at tyre fitting, cabinet making or teaching in the confines of the prison. Instead, they actually need the opportunity to do these things in the world *beyond* prison. And this implies a focus on something *more* than the individual offender or groups of offenders. As recent scholarship has convincingly shown (and, dare I say, as (ex)prisoners have always realised but found difficult to make known to the 'right'

⁵ I am tempted to use the term 'meaningless' rather than *menial* but have refrained from doing so. Prisoners do in fact know the meaning of work in prison—namely (and in spite of all rhetoric to the contrary) that such activity is designed to reinforce their status as persons at the 'bottom of the social heap'.

audiences), desistance from crime is closely linked to the desistance of retributive attitudes which endure in the wider populous well after persons have been released from custody and which impact the capacity for ex-prisoners to join the world of competent tyre fitters, carpenters or teachers (Farrall and Calverley 2006).

Concluding remarks

The dearth of information on (1) precisely how many people get out of prison in Australia each year and (2) with what variety of social-, cultural-, vocational-, educational-, economic- and health-oriented needs is sound testimony to the politico-social envisioning of this population as deservedly and fundamentally “other” (Garland 1996). We do not lack such information in relation to the number and type of cancer patients, the number and type of motor vehicle fatalities or, more recently, the number and type of fossil fuel emissions. Ultimately, this refusal to understand and engage the problem—indeed, to see the Prison Industrial Complex as a problem—is what sustains the circuits of exclusion described, for instance, by Rose. Arguably, the re-entry challenge (which is of course many challenges) is as much bound up with social perceptions concerning who or what is redeemable (Maruna 2001) as tied to provision of material resources (although the latter remains an urgent, serious and ongoing issue). Societies that believe in the enduring redemptive capacities or moral standing of each citizen arguably would not refuse meaningful opportunities for social re-connection and validation to those in need of such offerings. On this count, and at least in the Australian context, there is much work to be done to bridge the divide between (ex)prisoner and respected citizen (see Brown and Wilkie 2002).

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