

A COMPARISON OF OPEN AND CLOSED PRISON SYSTEMS: CAN THESE SYSTEMS BE IMPLEMENTED IN AUSTRALIA?

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This article examines the Norwegian prison system, which focuses on the rehabilitation of inmates and their reintegration into society, and whether this system can be implemented in Australia. It focuses on the individual experiences of inmates within open and closed Norwegian prison systems and highlights the differences and challenges they face. Open prisons aim to mimic community living by affording inmates greater freedoms. However, open prisons also introduce complexities such as confusion, anxiety, ambiguity, relative deprivation, and individual responsibility. Closed prisons, like the renowned Halden Prison, present different challenges which are similar to those in classic styles of prisons. Inmates within these two systems express mixed views about the rehabilitative effects they perceive the prison to have. The article also explores the social perceptions of punishment and how they influence the implementation of similar prison models in other countries. This analysis aims to contribute to the ongoing discourse on the effectiveness of various prison systems in reducing recidivism and promoting inmate rehabilitation across different societies.

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I INTRODUCTION

A common response to crime and punishment is “you do the crime, you do the time”, however, punishment in form of incarceration will often result in the cycle of crime continuing and ultimately, reoffending.¹ In Norway, only 20 per cent of inmates released commit another crime within two years of being released.² This is one of the lowest rates of recidivism in the world. Norway’s comparatively low recidivism rate can be attributed to prison policies introduced in the 1980’s which, at their core, directed prisons towards imitating community living and ensuring the inmate experience did not extend beyond the deprivation of their liberty.³ These principles are implemented in all Norwegian prisons including high security (closed) and low security (open) prisons. Despite the level of security, all prison inmates feel a similar pain due to their loss of liberties.⁴ This similarity is the core focus in the Norwegian open and closed prison systems. This essay discusses the differences in experiences between inmates in open and closed prisons and whether the Nordic prison model can be implemented in Australia despite the varying cultural views that underpin these systems.

II AN OVERVIEW OF NORWEGIAN PRISONS

Modern western prisons have four major aims including punishment, rehabilitation, retribution, and deterrence; but the overarching theme is

¹ Thomas F. Denson, ‘Breaking the Cycle of Violent Crime and Punishment: The Promise of Neuronormalization’ (2021) 15(1) *Social Issues and Policy Review* 237, 240.

² Meagan Denny, ‘Norway’s Prison System: Investigating Recidivism and Reintegration’ (2016) 10(2) *Bridges* 21, 24.

³ Are Høidal, ‘Normality behind the Walls: Examples from Halden Prison’ (2018) 31(1) *Federal Sentencing Reporter* 58, 58.

⁴ Kristian Mjåland et al, ‘Contrasts in freedom: Comparing the experiences of imprisonment in open and closed prisons in England and Wales and Norway’ (2021) 1(22) *European Journal of Criminology* 1, 2.

retribution and punishment.⁵ The Norwegian prison system moves away from these aims, rather it focuses on rehabilitation and reoffending, so that inmates are less likely to reoffend after completing their sentence. The systems are based on the principle of normality, aiming to give inmates a daily routine which mimics the outside world and prepares them for reintegration into society.⁶ This is achieved through prison design by having various buildings for education, activities, and housing for inmates to travel between, imitating movement within the community.⁷ This ‘normalcy’ is portrayed in the media of many western countries, including Australia, by showcasing the prisons as luxurious retreats where inmates have their own rooms with flatscreen televisions, desks, and private bathrooms.⁸ While most articles note the significant reduction in reoffending, they will often have titles such as ‘Welcome to the world’s nicest prison’ or ‘Norway’s controversial ‘cushy prison’ experiment’, highlighting images of people relaxing in the sun, implying a negative connotation towards the treatment of inmates within the prisons.⁹ This media portrayal is frustrating for many inmates as they believe it does not present an accurate representation of everyday life within the prison.¹⁰

The Norwegian Correctional Service (‘NCS’) holds the view the punishment inmates receive is their loss of liberty and they should not be subjected to further punishment or denied any other rights.¹¹ The definition of punishment is supported by the Supreme Court of Norway, “Punishment is a harm that the

⁵ Australian Law Reform Commission, *Family Violence – A National Legal Response* (Report No 114, November 2010) 4.81.

⁶ Meagan Denny (n 2) 27.

⁷ Are Høidal (n 3) 64.

⁸ Ibid.

⁹ See John D Sutter, ‘Welcome to the world’s nicest prison’ *CNN* (Web Page, 24 May 2012) <<https://edition.cnn.com/2012/05/24/world/europe/norway-prison-bastoy-nicest/index.html>>. See also Piers Henu, ‘Norway’s controversial ‘cushy prison’ experiment - could it catch on in the UK?’ *Mail Online* (Web Page 25 July 2011). <<https://www.dailymail.co.uk/home/moslive/article-1384308/Norways-controversial-cushy-prison-experiment--catch-UK.html>>.

¹⁰ Sami Abdel-Salam and Ashley Kilmer, ‘‘A Prison Is a Prison’’: Perspectives from Incarcerated Men on the Therapeutic and Punitive Aspects of Halden Prison in Norway’ (2022) (July) *The British Journal of Criminology* 1, 9.

¹¹ Are Høidal (n 3) Page 60.

state inflicts on an offender for the purpose of making it feel like harm.”¹² There is also a one-man-one-cell policy, limiting the capacity of the prison to the number of cells. Norway holds a total of 3,900 inmates, while the number of correctional officers is almost 4,000.¹³

There are two main prison systems in Norway, which are classified as either ‘open prisons’ or ‘closed prisons’. Both systems uphold the principle of normalcy, however, inmates do not necessarily agree with the idea that normalcy and increased ‘freedoms’ results in an easier prison sentence.¹⁴

III OPEN PRISONS: PRISON ISLAND

Prison Island is the name given to Bastoy Prison, the only Norwegian prison out of 43 which is on an island.¹⁵ All inmates in Norwegian prisons have the opportunity to transfer to Prison Island once they have completed the majority of their sentence.¹⁶ In a study conducted by Victor Lund Shammass, inmates were interviewed to get an inside view of what it was like to live in an open prison.¹⁷ While the media will generally refer to open prisons as a ‘hotel’ or ‘getaway’,¹⁸ one inmate stated ‘there is one thing you should understand: this is still a prison.’¹⁹ Inmates have an 11pm curfew and phones are switched off during working hours. They must also be present for a body count multiple times a day where random urine samples can be taken.²⁰ While open prisons afford inmates greater freedoms, these freedoms come with their own costs.

¹² Are Høidal and Nina Hanssen, *The Norwegian Prison System*, (Taylor & Francis Group, 1st ed, 2022) 11.

¹³ Are Høidal (n 3) 59.

¹⁴ Sami Abdel-Salam and Ashley Kilmer (n 10) 9.

¹⁵ Nancy Bolt and Erlend Ra, ‘A Visit to Bastoy Prison Library in Norway’ (2018) 32(2) *International Leads* 1, 11.

¹⁶ Ibid.

¹⁷ Victor Lund Shammass, ‘The Pains of Freedom: Assessing the Ambiguity of Scandinavian Penal Exceptionalism on Norway’s Prison Island’ (2014) 16(1) *Punishment and Society* 104, 105.

¹⁸ Amelia Gentleman, ‘Inside Halden, the most humane prison in the world’ *The Guardian* (Web Page, 19 May 2012) <<https://www.theguardian.com/society/2012/may/18/halden-most-humane-prison-in-world>>.

¹⁹ Ibid 106.

²⁰ Ibid 107.

Greater freedoms often lead to feelings of confusion, anxiety and boundlessness, ambiguity, relative deprivation, and individual responsibility.²¹

A *Confusion and Anxiety*

Most inmates are given the opportunity to travel between the island and the mainland each day to participate in work. The idea of this is to maintain a level of normalcy to promote a smooth transition back into the community. However, this can result in confusion for the inmates; having to be in the community – being afforded this freedom – while not having access to the full freedoms of those communities.²² There is confusion as to the boundaries in relation to their freedom. Employers often expect their employees to work overtime or stay late, however inmates are expected to be back from work at a certain time, forcing them to choose between disappointing their employer and missing curfew.²³ Some inmates also choose to undertake self-study within their rooms, during which time it can be easy to forget they are in prison, resulting in issues such as forgetting to attend the body count. These times of ‘normal living’ are disrupted by the institutional order that maintains the prison.²⁴

It is common for inmates approaching their release date in any prison to experience what is known as ‘release anxiety’.²⁵ Given the increased freedoms on Prison Island, inmates are often living in a constant state of ‘release anxiety’.²⁶ One area this is prevalent is home visits. What is meant to be a positive experience is often dreaded by inmates. Being able to experience a small piece of the outside world only reminds them further of what they are missing while inside the prison system.²⁷

²¹ Kristian Mjåland et al (n 3) 5.

²² Victor Lund Shammas (n 17) 110.

²³ Ibid.

²⁴ Ibid 111.

²⁵ See generally Jue Chen and Genwei Liao, ‘A study on the mental state of prisoners near the end of their sentence caused by a psychological anxiety case’ (2023) 28(S1) *CNS Spectrums* 2.

²⁶ Ibid 112.

²⁷ Ian D. Marder et al., ‘Empirical research on the impact and experience of open prisons: state of the field and future directions’ (2021) 256 *Prison Service Journal* 3, 5.

B *Ambiguity*

There is ambiguity between the inside and outside world of an open prison. There are many inmates who would rather serve their time in a closed prison as they do not have to ‘do stuff’ or ‘make something of their time’.²⁸ One inmate described a closed prison as like being in a bubble. Inmates only must focus on themselves, and the time passes quicker. In open prisons, inmates are waiting for something, whether that be their next visit to the mainland or their next phone call, which can cause time to drag.²⁹ Another issue noted by inmates was that by having the freedom to make phone calls you have ‘contact with freedom, [and] you notice freedom without being free’. On these calls, inmates sometimes hear about family issues but are unable to do anything to help.³⁰ Phone time is limited in a closed prison and inmates can insulate themselves from the outside world without knowing they are isolated.³¹ In an open prison, inmates are given the freedom to move about and leave the prison at times but must also exhibit self-discipline and self-control, which can be difficult.

C *Relative Deprivation*

Inmates generally compare their experiences in open prisons to their immediate surroundings, rather than to potentially worse experiences in closed or higher security prisons. The greater freedoms available to inmates create greater expectations, and the deprivation they experience is relative to these freedoms.³² This can be seen in the limitations on phone calls. Closed prisons only receive 20 minutes phone time a week and conversations are often monitored, whereas in open prisons the phones are only switched off during work hours.³³ Inmates complain this limits their ability to contact prospective employers or public offices.³⁴ While inmates are given greater access to freedoms, this does not prevent them from feeling deprived. Having the freedoms within reach reminds inmates of what they are missing. This deprivation might seem less significant in comparison to the deprivation of

²⁸ Victor Lund Shammas (n 17) 114.

²⁹ Ibid 115.

³⁰ Ibid 115.

³¹ Ibid 115.

³² Ibid 115.

³³ Ibid 114.

³⁴ Ibid 116.

rights in other systems, however, it can still have a significant impact on the well-being and mental state of inmates who can only compare their frustrations to their own experiences.³⁵

D *Individual Responsibility*

With great power comes great responsibility.³⁶ The same can be said for freedom. Inmates on Prison Island are given greater freedoms, but these freedoms come with the cost of individual responsibility. Inmates are not able to remove themselves from the outside world and are forced to work on improving themselves, participate in rehabilitation programs, be employed, and perform routines to imitate daily life in the community.³⁷ The NCS recognises this process can be as difficult for inmates as it would be to serve their sentence in a high security prison. Many of the inmates embrace the opportunities they are presented with throughout their sentence, understanding they benefit if they have input into it.³⁸ Inmates also have the responsibility to voluntarily return to the prison each day after leaving the island. The opportunity of escape is available, yet something compels them to return. When asked why they did not escape, an inmate said they ‘just wanted to get it over with so that they can start over and go to school.’³⁹ Although inmates certainly experience a variety of pains in relation to the increased freedoms during their sentence, the real prospects of rehabilitation supported by the prison system give the inmates a reason to remain in prison, as there is something positive for them at the end of their sentence.

IV CLOSED PRISONS: HALDEN

Norway's renowned 'closed' prison, Halden, which opened in March 2010, is often depicted in the media as a prime example of the distinctive prison systems found in Nordic countries.⁴⁰ The media presents the idea that Halden is a comfortable prison with private cells and green open spaces for inmates to enjoy, but this does not represent the general views of those living within the

³⁵ Ibid 115.

³⁶ *Kimble v Marvel Entertainment LLC*, 576 US 446, 2401, 2415 (2015).

³⁷ Ibid 117.

³⁸ Ibid.

³⁹ Ibid 118.

⁴⁰ Are Høidal (n 3) 62.

prison.⁴¹ Studies of inmate perceptions of Halden show an overwhelming appreciation for the individual cells, however, they do not perceive the prisons overall design to be therapeutic or motivational.⁴² Although the prison's physical aspects and amenities are not overlooked, these were viewed as insignificant in comparison to the loss of liberty due to imprisonment.⁴³ This aligns with the NCS' ideals on punishment, in that the loss of liberty is already a punishment in itself, and further punishment would conflict with the overarching principle of normalcy and rehabilitation.

A *Expectations*

The support from inmates for the amenities and design of the Halden prison regarding their rehabilitative effects is mixed.⁴⁴ While the prison was generally viewed as aesthetically pleasing and having greater amenities than other prisons, inmates did not necessarily view this as having a motivating effect for their rehabilitation.⁴⁵ Upon arrival, inmates are often met with disappointment. The amenities are far more run down than the expectations they had formed from the media and what they had heard from former inmates.⁴⁶ Further, inmates feel frustration with the portrayal of the prison having naturally lit green spaces for them to use, when access to these spaces is very limited and they can only look out at these spaces through large windows. One individual stated when they are allowed to go outdoors, they are generally required to stick to the asphalt paths except for brief supervised walks.⁴⁷ The prison's modern design does not overshadow the constant awareness of being in prison.

B *Punishment*

In accordance with the rehabilitative model, the NCS believes the only freedom taken away from inmates is their loss of liberty, and the condition of the prison is not meant to worsen the loss of freedom.⁴⁸ While media critics from other countries often hold the view that Halden's approach is 'soft', the

⁴¹ Ibid.

⁴² Sami Abdel-Salam and Ashley Kilmer (n 10) 7.

⁴³ Ibid.

⁴⁴ Ibid 8.

⁴⁵ Ibid 9.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Are Høidal (n 3) 60.

inmates at Halden were clear that despite the seemingly easy prison life, they still experienced the punitive aspects of prison and the feelings of being disconnected from the outside world.⁴⁹ The view held by media critics, describing Halden as ‘radically humane’⁵⁰ suggests there is an expectation that prison should be more than a loss of liberty; that prison is there to serve as punishment and for inmates to experience the ‘pains of imprisonment’.⁵¹ The loss of liberty experienced by inmates is not just a restriction of movement within the prison, but also a limitation of connections with family, friends, and the community; losing time that is generally spent with loved ones.⁵² Further, inmates experienced a loss of their autonomy, losing their ability to make choices in their life. While Halden is designed around the principle of normality, inmates identified they “have no feeling whatsoever of normality inside this prison”.⁵³ Inmates do not have freedom to roam around the prison. Their movements between prison areas are double-checked. They must pass through metal detectors and walk in lines, severely limiting the feeling of normal living.⁵⁴

C Motivation Towards Rehabilitation

While inmates at Halden did not generally perceive the prison’s design and amenities to completely mitigate the pains of imprisonment, it was noted by the officers that violence within the prison was very rare.⁵⁵ They attributed this to individuals having their own space to which they could retreat.⁵⁶ Although inmates have a positive view of the amenities and greenery around the prison, they do not believe these have any kind of therapeutic or motivating effect towards their rehabilitation.⁵⁷ The study on the perspectives of incarnated men

⁴⁹ Sami Abdel-Salam and Ashley Kilmer (n 10) 11.

⁵⁰ Jessica Benko, ‘The Radical Humaneness of Norway’s Halden Prison’ *New York Times* (Web Page, 26 March 2015) <<https://www.nytimes.com/2015/03/29/magazine/the-radical-humaneness-of-norways-halden-prison.html>>.

⁵¹ Ibid 10.

⁵² Ibid 11.

⁵³ Ibid.

⁵⁴ Ibid 12.

⁵⁵ Ibid 13.

⁵⁶ Ibid.

⁵⁷ Ibid.

at Halden conducted by Sami Abdel-Salam and Ashley Kilmer gave two possible interpretations for this. The first interpretation is the prison actually does have motivational benefits of which the inmates are not aware. Inmates have their own space and are able to direct their energy towards more positive forms of rehabilitation such as education or preparation for work upon release as opposed to focusing on survival within the prison and worrying about their safety.⁵⁸ The second interpretation is that any positive effects produced by the prison's design and amenities do not overcome the negative emotions inmates feel through their disconnect from the outside world and their expectations of Halden. Inmates do not feel as though prison life truly represents the principle of normality. However, it was noted these were the views of inmates while they were incarcerated and may change after they were released and were able to recognise the potentially beneficial aspects of their prison life.⁵⁹

V SOCIAL PERCEPTIONS OF PUNISHMENT

A *The Welfare State*

In both open and closed prisons, inmates still experience the 'pains of imprisonment'. Neither are completely lacking in a punitive nature. The severity of a punishment is experienced in comparison to an individual's life. In Norway, where social welfare is high compared to other countries, the deprivation of liberty increases in severity.⁶⁰ Nordic countries have tended to focus on the causes of crime through issues such as social welfare, housing, health, and education which reduces the rate of criminal offending.⁶¹ However, many of these welfare schemes are made possible due to the comparably higher tax rates in Norway, of which Nordic people are generally more accepting.⁶² The tax paid in Norway in relation to their GDP is 42.1 per cent, whereas in Australia it is only 25.9 per cent.⁶³ Overall, Australians are less accepting of

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Peter N. Grabosky, 'The Comparative Study of Penal Severity: Some Methodological Considerations' (1978) 17 *International Annals of Criminology* 209, 210.

⁶¹ Andrew Scott, 'Crime Prevention and Prisoner Rehabilitation in Australia: Lessons from Nordic Nations' (2017) 42(2) *Alternative Law Journal* 118, 120.

⁶² David Brown et al, 'Contrasts in Punishment: An Explanation of Anglophone Excess and Nordic Exceptionalism' (2013) 2(3) *International Journal for Crime and Punishment* 120, 126.

⁶³ Ibid.

increasing tax rates, resulting in government policies focusing on decreasing taxes.⁶⁴ Recent surveys conducted in Australia suggest public perceptions surrounding tax and prisons may be changing with 69 per cent of respondents stating it was ‘very important’ for tax payer money to be used on programs that reduce crime.⁶⁵ However, this support was not for taxpayer money to be used on prisons themselves and to help people that have offended, but rather to be used to prevent crime from occurring.⁶⁶

It is also important to note open prisons are cheaper to operate than closed prisons.⁶⁷ Introducing open prison systems to Australia with the argument of a lower cost form of rehabilitation may assist in shifting public perceptions of prison rehabilitation.

B Punishment

A further issue faced in Australia is balancing the punitive aspect of a prison sentence with the growing focus on rehabilitation. Cultural views held in Australia are significantly different to those held in Norway. Norwegian systems receive widespread support from the population, whereas Australians generally lack public confidence in the justice system and want harsher penalties for offenders.⁶⁸ However, there is support for alternatives to imprisonment, especially for youth offenders, the mentally ill, and non-violent offenders.⁶⁹ The key consideration in supporting inmate rehabilitation and reintegration into society is the knowledge that 99 per cent of offenders will return to society at some point. A common political standpoint in Australia is arguing for harsher penalties and increased minimum mandatory sentencing.⁷⁰ Norway comparably has significantly lower sentences than Australia. The

⁶⁴ Matt Grudnoff, ‘Stage 3 tax cuts and LMITO by occupation’ (2022) *The Australia Institute* 1, 2.

⁶⁵ Lorana Bartels, Robin Fitzgerald and Arie Freiberg, ‘Public Opinion on Sentencing and Parole in Australia’ (2018) 65(3) *Probation Journal* 269, 272.

⁶⁶ *Ibid.*

⁶⁷ Victor Lund Shammas (n 17) 107–108.

⁶⁸ Geraldine Mackenzie et al., ‘Sentencing and Public Confidence: Results from a National Australian Survey on Public Opinions towards Sentencing’ (2012) 45(1) *Australian and New Zealand Journal of Criminology* 45, 56.

⁶⁹ *Ibid.* 57.

⁷⁰ See generally Liberal Party of Australia, ‘Our Plan for a Safe and Secure Australia’ (2022) <<https://www.liberal.org.au/our-plan-safe-and-secure-australia>>.

longest possible prison sentence in Norway is 21 years, and the average sentence is eight months. Approximately 60 per cent of sentences are less than three months and 90 per cent are less than a year.⁷¹

One of the biggest contributors to Norway's success in this area is that the public view inmates as people and as members of the community, with Halden being labelled the world's most humane prison.⁷² This view has been developed through the import model which means all of the programs and necessities such as education and health within the prison are provided by the same teachers and doctors that serve the community.⁷³ Providing inmates with the same services provided to the community reduces the bias against inmates. This is because they interact more with the community and others around them to mitigate the stigma of a prison sentence.⁷⁴ Introducing the import model into Australian prisons may also reduce biases towards prisons and inmates by creating a flow-on effect to other controversial areas of prison reform such as reduced sentences and rehabilitation. Public perception of inmates is critical. Rehabilitation is not possible unless the public bias against inmates is altered.

VI CONCLUSION

There are clearly a range of cultural and political aspects that play into the success of Norwegian prisons, including the importance placed on public welfare in Norwegian society. While the difference in welfare between Australia and Norway has been discussed, it is important to note this is a one-dimensional explanation of the differences in punitiveness between these countries.⁷⁵ The Nordic prison systems are relatively new and are simply a different method of confinement than seen in most Western countries. However, the experiences of inmates in both the open and closed Norwegian prisons show it is possible to both punish and rehabilitate simultaneously, while remembering the inmates are still humans. An important question to consider in Australia is 'how can support for rehabilitative processes be garnered if the public refuses to see those with prison sentences as people?'. While there is evidently a lack of research on open prison systems and their rehabilitative effects, it seems any shift towards such an area will begin with

⁷¹ Are Høidal (n 3) Page 60.

⁷² Amelia Gentleman, (n 17).

⁷³ Ibid 62.

⁷⁴ Ibid.

⁷⁵ Peter Scharff Smith and Thomas Ugelvik, *Scandinavian penal history, culture and prison practice: Embraced by the welfare state* (Palgrave Macmillan, 1st ed, 2017) 512.

shifting the views of the public and how inmates are viewed in Australian society.