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# Rethinking Prison Reform: Using Decision Science to Improve Prison Effectiveness

*Mark Dlugash*

### Abstract

Many believe that prison is not worth the cost but are unsure of what to do about it (Codd 2008). Building on the work of Sunstein and Thaler (2008), this article articulates a novel approach to reducing the costs of prison via “nudges” in “prison architecture”, or “moderation-by-nudge”. The main argument is that these nudges are practical and politically viable and they can be used to reduce costs and improve the psychological and emotional experience of prisoners. This article also argues that prisons can be designed in a way that is more contemporary, humane, and effective at helping prisoners reintegrate into society.

### Acknowledgment

This article is an edited excerpt of a previous graduate dissertation “Nudges in Prison Architecture.”

*Mark Dlugash is a graduate student at the Harvard Kennedy School. He previously studied Criminology and Criminal Justice at Oxford University.*

## INTRODUCTION

Many believe that prison is not worth the cost but are unsure of what to do about it (Codd 2008). This article articulates a novel approach to reducing the costs of prison: namely, through “nudges” in “prison architecture”. First, I will outline the major costs of prison. Next, I will review three major obstacles to prison reform as I see them: the problems of entrenchment, penal excess, and political pressures. Then I will review work by Loader (2010) on strategies toward penal moderation and point out some of the particular drawbacks of these approaches as well as the potential for a “third way”. At this point, I will introduce the concepts of “prison architecture” and “nudges” and illuminate the potential benefits as well as drawbacks of nudges in prison architecture. My main argument is that the costs of prison can potentially be greatly reduced through nudges in prison architecture; that these nudges are both practical and politically viable; and that they may be used to reduce the deleterious impact prison has on the families of prisoners and to improve the psychological and emotional experience of prisoners. Moreover, prisons can be designed in a way that is more contemporary, humane, and effective at helping prisoners reintegrate into society. Although I refer primarily to the experience of prisoners within the United Kingdom and the United States, the analysis and recommendations have implications for prison reform around the world.

### Costs of Prisons

I begin by outlining some of the major costs of prisons. These include the enormous financial costs of feeding and housing inmates that can run as high as the cost of a year in a private liberal arts college: an average of approximately \$32,000 annually in the United States and ranging as high as an average of \$60,000 annually in New York (Fine 2001; Sim 2009; Henrichson and Delaney 2012); secondary costs to the families of prisoners in terms of both the monetary costs of visiting and lost wages as well as the humiliations often experienced when visiting (Braman 2002; Codd 2008); social costs of children growing up without parental figures (Codd 2008); costs to the economy as a result of lost labor and decreased job prospects for prisoners as a result of economic signaling and various knock-on effects (Spence 1973; Becker 1975); psychological and emotional costs borne by prisoners, including heightened depression, anxiety, and risk of suicide (Hamlyn 2000; Rideout 2006); physical costs due to assaults in prison and lesser access to quality healthcare during incarceration; and ethical and moral costs to society writ large because of the human rights abuses that prisoners face; and the psychic costs of wasted lives. These costs are amplified by high rates of recidivism that in the United Kingdom exceed 67% within two years of release according to Home Office Statistics (c.f. Rideout 2006; Sim 2009) and by the long-term imprisonment of many offenders (Morgan and Liebling 2007). There is little dispute that the costs of prison are substantial, yet efforts to reduce those costs have come across a variety of obstacles that I will now describe.

### Obstacles to Prison Reform

The first obstacle to prison reform is the entrenched nature of prisons (Sim 2009). Prisons have operated since the late 19<sup>th</sup> century without thoroughly modernizing their philosophies of punishment and rehabilitation and physical design (Bosworth 2010).

Even the very rationale for prisons at this point is muddled and unclear, reflecting a mix between warehousing, punishment, and rehabilitation (Martinson 1974; Liebling 2005; Morgan and Liebling 2007). The status quo with regard to prisons has been reified as normal to the extent that clear evidence that excoriates the failures of prisons to rehabilitate prisoners does not provide an impetus for reform (Martinson 1974). Correspondingly, one of the most insidious aspects of the modern penal estate is that the public has little interaction with what goes on in prisons and can therefore continue to unquestioningly “consume” the punishment that prisons provide (Loader 2009; Simon 2010).

The second obstacle to prison reform is penal excess, which can be defined as the “extravagant violation of law, decency or morality, outrageous acts of conduct; the action or act of exceeding the limits of moderation...” with respect to prisons (Loader 2009: 43). Notions of penal excess are deeply tied to politics, demagoguery, lack of faith in government competence, and the development of crime as a citizen concern (Loader 2006; Zimring and Johnson 2006). It results in net-widening in incarceration, including that of youth, the mentally ill, addicts, illegal immigrants, asylum seekers, and *de facto* refugees who are deprived of their rights (Bosworth 2007; Bosworth and Kaufman 2011). Although evidence of past human rights abuses in prisons (e.g. McConville 1995; Liebling 2005; Bosworth 2010) may appear to contradict Loader’s (2006) conceptualization of penal excess as a recent phenomenon, criminologists support the notion that current penal policies are excessive and that inertia helps keep them so.

The third obstacle to prison reform comes about as a result of political pressures and incentives. Since the early 1980’s, many politicians have sought to appear tough on crime because voters have continually punished those who take more lenient stands (Blanding 2009; Nguyen 2001). The classic case cited is that of 1988 U.S. Democratic presidential candidate Michael Dukakis, who was attacked for a prison furlough program that resulted in the rape of a civilian and subsequently lost the election by an overwhelming margin. The tabloid press, with its sensational and graphic depictions of violent crimes, may further “inflare” the public and scare politicians against taking more lenient stands (Muncie 2002). As a result, those in power who have the opportunity to help transform excessive penal policies effectively feel their hands are tied; if they attempt to introduce reforms that can be used to paint them as soft on crime, they risk jeopardizing their re-election.

## Penal Moderation Strategies

Loader (2010) has suggested two major strategies to help bring about penal moderation, yet each of these suffers from particular drawbacks. The first strategy, called “moderation as politics”, calls for politicians to explicitly advocate for moderate penal policies under the assumption that the public can be convinced by rational argument. Yet it ignores evidence of “rational ignorance” of the public with regard to a great many public policy issues because of the time that would be needed to master these issues (Downs 1957). In a modern age, many public policy decisions are essentially outsourced by the citizenry because of busy lifestyles and the splintering of communities (Putnam 2000). Moreover, the strategy overlooks the fact that the root of people’s attitudes against many crimes

stem from deep fears and anxieties that are not easily dismissed through rational argument (Loader *et al.* 2000; Burney 2009; Crawford 2009). And this strategy ignores the incentives of politicians to avoid addressing such hot-button issues that might upset voters. A mass democratic movement in favor of penal moderation would substantially change these incentives, but such a movement does not currently exist in an organized fashion; corresponding proponents for restorative justice, for example, have been unable to fulfill their aims or even bring their concerns to the forefront of political debate (Cunneen 2010). Thus, I find this first strategy quixotic.

The second strategy suggested by Loader (2010), “moderation by stealth”, is similarly problematic. This strategy would attempt to create crime control institutions that could be stewarded by so-called “platonic guardians” of the republic (Loader 2006). These officials, supposedly “above” partisanship, would theoretically act “rationally” to enact prison reform quietly, outside the purview of the public. There are myriad problems with this strategy. First, how are such institutions to be constructed initially, and why would the public agree to them, given their obviously strong feelings about crime? Second, how would officials be chosen so that they were above partisanship, given that even the highest judges in the U.S. Supreme Court are routinely criticized for allowing politics and personal biases to color their decisions? Third, how would such crime control institutions avoid capture by special interests, when corresponding public institutions, similarly constructed for such noble purposes, such as the Food and Drug Administration, have failed to do so? Thus, this is a specious strategy.

There is, however, a third potential strategy that Loader (2010) overlooks which would bring about a semblance of penal moderation immediately. Put simply, it is to enact policies *in prisons* that moderate prisoners’ experiences. Liebling (2006) and Sparks and Bottoms (1995) have argued persuasively that prisoners evaluate the quality of their experience based on the extent to which they find their daily lives to be governed by basic values such as humaneness of routines, order, respect, safety, fairness and procedural fairness, and justice. Furthermore, research suggests that interpersonal relationships with staff are particularly important in prisoners’ overall conception of the harshness or humaneness of their incarceration. There is little reason to believe that it would be controversial for prison wardens to attempt to use this research to create a more humane and effective prison regime. Changes such as providing more supportive staff interactions seem, on the whole, rather minor, yet it is possible that they may have an outsize impact on prisoner experience which in turn could have great knock-on effects with respect to recidivism. More broadly, small, judicious changes in policy can have a disproportionate impact on a variety of important factors, such as the experience of prisoners and recidivism.

### **Connecting Prison Reform to Decision Science**

Sunstein and Thaler (2008) have written extensively about this insight in the realms of decision sciences and public policy, and their work enables us to reconceptualize prison reform.

I define prison architecture by using their conception of *architecture* as the context in which people act and decide. It is not just the physical layout of space, but also the philosophy, guiding values, and sets of routines that occur within, and sometimes because

of, the particularly context. Their work suggests that the small details in architecture can make an impact on decisions and outcomes and that no context is necessarily “neutral”, but will instead encourage different routines, decisions, and outcomes. For example, the harshness of institutional lighting can contribute to prisoners’ choosing to exercise rather than read. The *choice architect* or *prison architect* then, using Sunstein and Thaler’s (2008: 3) conception, is someone who “organiz[es] the context in which [prisoners] make decisions.”

Sunstein and Thaler (2008: 6) define *nudge* as “any aspect of the choice architecture that alters people’s behavior in a predictable way without forbidding any options or significantly changing their economic incentives.” To count as a nudge, as opposed to a “full push”, the aspect must be “easy and cheap to avoid.” For example, banning junk food from a school would be a full push, whereas putting fruit at eye level would be a nudge. Using drug treatment to replace prison time, as some have advocated, would constitute a push (Nolan 2001); posting the phone number of a confidential drug treatment program on a prison bulletin board, as some low security prisons have done, would be a nudge. The nudge is a low-cost way to have a potentially significant impact on the experience of prisoners. As a stark contrast to utopian solutions to improve the prison estate (such as prison abolition or expensive rehabilitation programs) is the idea of using a series of well-designed nudges instead.

The use of nudges to prison architecture has a number of potential benefits. First, it would seem to hold great appeal to policymakers on a number of fronts. It is a generally low-risk strategy, requiring little political capital to enact; it is relatively inexpensive and cost-effective; and it is broadly acceptable to policymakers across the political spectrum. Within the United Kingdom, the current coalition government already takes the idea of nudges quite seriously: it has set up a “Behavioural Insight Team” in order to use behavioral economics to nudge citizens to make better long-term decisions (Wintour 2010). Second, nudges may allow for change to happen through a process Sunstein (2008) calls *visionary minimalism*: small consensual policy maneuvers enabling larger transformations. Nudges in prison architecture hold the possibility of improving conditions for prisoners, their families, and future recidivism, benefiting citizens socially and economically.

Despite these potential benefits, a policy of nudges in prison architecture may mask some deeper problems. In particular, nudges are unsatisfying in the sense that they do not represent the “full push” that many feel the prison estate deserves (e.g. Liebling 2006; Codd 2008), especially given the extremely punitive and disturbing history of prisons (e.g. McConville 1995; Bosworth 2010). Nudges explicitly work within existing frameworks, rather than questioning or seeking to transform them. They are not the favored tool of the activist, who stakes out a clear moral position and is willing to fight for it over a long period of time. Nudges therefore do not necessarily align with the prison reform movement, especially in its most extreme abolitionist form; while nudges could be used towards the reform of prison, they need not be; they are a tool that is somewhat ideologically non-aligned. Nudges may also be meretricious in their promise of cheap solutions; it may turn out that they fail to offer true solutions, and that such solutions are not in fact cheap.

Through the rest of this article, I will suggest nudges to ease what Sykes (1958) calls the “pains of imprisonment”, develop a conception for designing the modern prison,

and consider key criticisms. My contention is that though nudges cannot offer a panacea to the problems of the prison estate, they may nevertheless be used to reduce costs and significantly improve lives.

## **NUDGING THE PSYCHOLOGICAL AND EMOTIONAL EXPERIENCE OF PRISONERS**

This section examines the psychological and emotional experience of prisoners and attempts to develop nudges to mitigate the “pains of imprisonment” (Sykes 1958). First, I will provide a rationale for caring about, and attempting to improve, the psychological and physical health of prisoners. Then I will describe some of the key pains of imprisonment, including pains related to the threats of suicide, assault, isolation, and boredom – which are not goals of the current system but rather results – and recommend nudges that could ameliorate these pains. These potential nudges include training guards to act as sources of support to prisoners, ensuring that there are guardians present wherever prisoners are, and offering free classes to prisoners. My contention is that these nudges can be used to ease the pains of imprisonment, improve the quality of life of prisoners, and contribute to improved outcomes in a variety of penal settings ranging from minimum to maximum security.

There are legal, moral, and practical reasons to attempt to ease the pains of imprisonment. Accounts of prisoners tend to view the prison context in highly negative terms: one inmate described prison as an “unmoving reality of oppressive greydom” (Crewe 2009: 489). Making prison an oppressive experience serves as double punishment that is unfair as well as legally and morally difficult to justify. Moral theorists who have grappled with questions of prisoners’ rights have argued that prisoners have a right to at least a moderate level of recreation and entertainment, which can result in physical, psychological, and social benefits as well as self- development (see Lippke 2003). From a practical perspective, making prison a mentally and physically abusive experience for prisoners harms rehabilitation efforts. It means they are more likely to return to society broken, institutionalized, radicalized, resentful, hardened as criminals, mentally unfit for work, and at increased risk of recidivism (Hamlyn 2000; Rideout 2006). It is more prudent to ease the pains of imprisonment and focus efforts on rehabilitation via work, education, and recreation. Moreover, as prisoners become occupied with these efforts, staff workload and stress levels may correspondingly decrease (Batchelder and Pippert 2002).

### **Suicide Prevention**

Suicide is a major problem that accounts for more than half of deaths in custody (Kupers 1999). Many of those in prison are already “at risk” by nature of their socioeconomic status, mental health problems, abusive histories, and difficult family backgrounds (Liebling 1995; Sharkey 2010). The added stress from prison can dramatically elevate the risks (Heuy and McNulty 2005).

One of the key factors that has been linked to an increased risk of suicide is overcrowding (Rideout 2006; Sharkey 2010). Evidence suggests that with high levels of

overcrowding, minimum security prisons, which typically experience relatively low levels of suicidality, are as likely to experience suicide as medium and maximum security prisons. It is theorized that overcrowding is a factor in suicide because it raises anxieties and threatens security through a variety of pathways. Firstly, increased anonymity brought on by overcrowding can increase feelings of despair and hopelessness and also make instances of abuse less likely to be discovered or dealt with appropriately (Fairweather 2000b). Moreover, sharing a cell can raise anxieties for prisoners, lead to a loss of autonomy, and increase instances of actual assault (Fairweather 2000b; Sharkey 2010). Correspondingly, waiting in long lines for food can make daily routines such as going to the dining hall stressful and the likely site of fights (Godderis 2006; Sharkey 2010). Overcrowding is also stressful to staff and makes their jobs more difficult (Fairweather 2000b). For all of these reasons it is widely argued that “[f]rom a policy perspective, reducing prison overcrowding should be a priority” (Heuy and McNulty 2005: 508).

In addition to overcrowding, the data suggest that certain key moments of crisis can raise the risk of suicide. These key moments may include arrival in prison, parole refusal, following a visit, at weekends, at night, during bereavement, when being informed of a transfer, or preceding or following one (Liebling 1995; Borrill *et al.* 2005). Transfers in particular are anxiety-producing for prisoners because they can happen without warning; prisoners are forced to leave the environment which they are used to and move into a strange new one, often without any of their possessions. They also lose orders on goods that have not yet been delivered and are not compensated for this, which many perceive as unjust and tantamount to theft (Marchetti *et al.* 2002; Sharkey 2010). Studies suggest additional risk factors for attempting suicide in prison include being less likely to “be engaged in activities” or to “have a job” in prison; being “more likely to report difficulties with other prisoners and with staff”; and being “[less] likely to receive regular or helpful contact from the outside” i.e. from family, friends, or the probation service (Liebling 1995: 178). Feeling that they have no one who cares about them is a common complaint of prisoners. They feel isolated with their problems: their family and friends are far away; fellow inmates are struggling with problems of their own; and guards are untrained and ill-equipped to help them (Liebling 1995; Sharkey 2010).

There are a number of possibilities for using nudges to help prevent suicide. First, with respect to overcrowding, the obvious response would seem to be to reduce population density, but it is financially costly to build more prison space and politically costly to advocate sending fewer people to prison. One possibility is to break up the prison into smaller, semi-autonomous units of 100-600 people to at least give the illusion of a more personalized and less anonymous experience (Fairweather 2000b). Offering multiple lunch shifts can decrease the anxiety that comes from overcrowding as well as the risk of assault. With respect to the key moments of crisis, one nudge would be to train the prison staff in the precipitating factors of suicide attempts, such as recent bereavement, transfers, and parole refusal (Borrill *et al.* 2005). Staff can also be trained to observe the characteristics of those who may be at heightened suicide risk and attempt to help them. Staff can do more than guard prisoners; they can also provide emotional support and serve as role models. Much has been written about the importance of staff/inmate relationships, and indeed how respectful interactions between guards and prisoners lend legitimacy to the institution (Liebling 2006). I would go further and

advocate for training prison guards in effective listening skills and basic Rogerian counseling techniques that are designed to build rapport. One final nudge for suicide is to ensure there is *always* someone on call whose role is simply to listen empathetically to prisoners if they want to talk (Rideout 2006). These listeners could wait outside cells or be accessible by pressing a button, and could be comprised of staff, volunteers or even other prisoners.

### **Assault Prevention**

Subtle design choices can play a critical role in influencing the likelihood of assault (Wener 2000). For example, traditional bars and cages of cells are visual cues that subtly send the message, “This place is so dangerous, even the staff needs protection” (Wener 2000). This perception of elevated risk can become a self-fulfilling prophecy as prisoners may then choose to isolate themselves, procure weapons, enlist group or gang protection, or take pre-emptive action (Wener 2000). Fairweather (2000b: 41) writes, “Oppression and ugliness can lead to alienation and aggression”; he implicates any “unwholesome accommodation” including such seemingly minor aspects as “dowdy colors, dim lighting, and excessively harsh materials.”

Numerous nudges can help decrease the risk of assault. From an architectural perspective, it is preferable whenever possible to hold prisoners in wide open spaces, such as rotundas, in which guards can easily see instances of assault, rather than in more enclosed spaces (Wener 2000). This notion fits in with situational crime prevention, as it adds guardians to a context to reduce the risk of assault (Clarke 2003). Similarly, security cameras can be used as guardians, though Fairweather (2000b) cautions against their overuse because too much remote surveillance can add to prisoner resentment and alienation. Instead, he proposes aligning cells such that there is always a guardian within close range, such as a listener. Additionally, institutional values can reduce the risk of assault by creating a caring community that is intolerant of physical violence. Lastly, adding art to walls and colorful rugs can provide softer visual cues that may reduce assault (Fairweather 2000b; Wener 2000).

### **Isolation/Boredom**

Prisoners may simply lack enough stimulation to keep them occupied, especially in a modern era, without the use of the Internet, phones, or word processors, and this can contribute to feelings of isolation and boredom. They may also lack interesting and quality exercise, and varied food and clothing (Sykes 1958; Carlen 1982). For women especially, there is a loss of femininity and identity, as they may be deprived of razors for shaving their legs, tweezers, makeup, and deodorant (Carlen 1982). Although these deprivations may at first sound relatively trivial, they can be dehumanizing and a crucial component of the emotional experience in prison and the construction of identity.

Another aspect of this isolation and boredom is the lack of opportunity to improve one’s educational and vocational qualifications, specifically by getting job training or taking classes (Hamlyn 2000); surveys of United Kingdom prisoners confirm that they want more job training and educational opportunities (Stewart 2008). Though some would advocate punishing prisoners by removing such opportunities, doing so increases the likelihood that prisoners will experience unemployment upon release and raises the



chances that they will return to prison. In particular, many prisoners would benefit from the opportunity to attain literacy skills and engage in a pre-college curriculum (HCCPA 2008; Bhatti 2010). There are many potential benefits of improved educational opportunities in prison. Education can lead to empowerment and foster a sense of community (Reuss 1999). It can help take prisoners' minds off their troubles and keep them engaged; this is especially true for arts classes (Liebling 2006; Nugent and Loucks 2011). And most instrumentally, education can help increase employability and reduce recidivism (HCCPA 2008).

Numerous nudges can be used to help keep prisoners engaged rather than isolated and bored. First, they can be given access to basic group recreational opportunities, such as soccer, run by a head of recreation and varied to prevent boredom. Another potential nudge to reduce isolation is access to email and video/VOIP software. It is relatively inexpensive to offer prisoners access to deodorant, makeup (which could be donated), and prison-safe razors, such as the one manufactured by Gillette, which requires a key to remove the blade. With respect to job preparation, prisoners can be given the opportunity to work in prison, for example by serving as waiter/waitress during meals: this nudge provides numerous benefits. It gives prisoners a chance to use existing skills and potentially to develop new ones, which helps ward off feelings of worthlessness and aids self development. It gives them employment experience that will be helpful when they apply to jobs outside of prison. And it enables them to contribute to the prison community. One job in particular that could be widely encouraged is to serve as a listener for other prisoners. Encouraging prisoners to help and respect their peers, and training them in supportive listening skills, can be a part of their personal development as well.

With respect to education, it is economical to bring in outside volunteers, such as members of the local community or college/graduate students, to teach basic skills classes. These could include reading, ESL, and college preparation, as suggested by Fine (2001). Basic educational surveys could be carried out with inmates upon arrival to help gauge their level. Philosophically, there is no reason to let inmates fall further behind educationally; indeed, educational deficits may have contributed to the causes of imprisonment (Fine 2001). In addition to skills classes, various arts classes can be offered such as painting, yoga, and relaxation classes. These classes can be a great benefit to prisoners in terms of being enjoyable and relaxing, helping to build community, enabling prisoners to develop an identity outside of being merely a "prisoner", and helping them deal with feelings of aggression (Nugent and Loucks 2011). These benefits may contribute to a more tranquil environment in which the prospects for self harm and assault are reduced as well.

Thus, there is a good case for attempting to moderate the psychological and emotional experience of prisoners. I have drawn attention to the way in which the prison architecture puts prisoners at risk of suicide, assault, isolation, and boredom, and I have advocated working to ameliorate these pains of imprisonment. The nudges that I recommend, especially those related to training guards to act as sources of support to prisoners, increasing the presence of guardians, and improving educational access and opportunities, have the potential to keep prisoners intact until they re-enter society, rather than broken, institutionalized, or mentally unwell. This, in turn, could have a significant impact on the success of prisoners reintegrating to society, finding gainful employment,

and preventing recidivism. Thus, the policies I propose, and those similar, could benefit not only prisoners and staff, but also society.

## THE ARCHITECTURE OF PRISONS: DESIGNING THE MODERN PRISON

In this section, I examine the architecture of what I call the “modern prison”, by which I mean a prison that is contemporary, humane, and effective at helping prisoners reintegrate into society. This design combines “full pushes” and “nudges”; it is both normative (in terms of what ought to be) and practical (in terms of what is realistic). First, I provide a rationale for “modern design”, i.e. design that is suited to the times. Next, I will review some limitations of current prisons and contrast these with what a modern prison can achieve: prison can be an opportunity to rectify past mistakes and build for a better future. Then, I will describe the architecture of a more modern prison and what Rideout (2006) calls the “creative prison”, and well as the manner in which the Spring Hill prison in Buckinghamshire exemplifies the tenets of the creative prison. My contention is that design, both in terms of physical and choice architecture, is of *fundamental* importance and requires careful planning to meet the standards of the modern prison.

We know from various theorists (e.g. Fairweather 2000a) that design in prison matters a great deal; as McConville (2000) writes, architecture affects how people live together and even their aspirations. Yet, prison design as a field has been greatly neglected, and many new prisons do not reflect sentiments of modern design (Shaw 2000). Perhaps this contention is best illustrated by Stern 1998 (c.f. Shaw 2000: 151-151), in the example of an Aruban prison gone wrong:

In the Caribbean Sea just off Venezuela lies the small island of Aruba with a population of 65,000...[t]he main industry is tourism and the island is well covered with architecturally bizarre holiday complexes. At the far end of the island, on a rather bleak piece of land on the seashore, is another architecturally bizarre building, a brand new, state of the art, top-security prison...its security is awesome. First there is an inner wall topped with razor wire, then a gap, then an outer wall also topped with razor wire, and finally a fence fortified with an alarm system. The internal construction is also remarkable – a series of small living units built around a central area where the staff sit watching video cameras and pressing the buttons that activate the opening of all the doors...this bizarre construction prompts a number of questions. Who decided to build a top-security prison in a country where most crime is non-violent and petty and where a long sentence is regarded as one of eight months or more? Who decided to build a prison with so little access to light and air on a

tropical island? Who felt that, in a place so small that personal relationships are all-important, the right prison was one controlled by electronic surveillance and high-tech gadgetry? How did such a completely Western construct end up on the beach of a South American island anyway?’

This quotation represents the danger of mechanically reproducing the status quo in prison design. To rely uncritically on outdated thinking for the design of modern prisons, when the prison estate is a “creature of history rather than of a grand penological plan” (Shaw 2000: 154), is both nonsensical and dangerous, yet it happens all the time.

Key failures of architecture in present-day prisons include the dehumanization of prisoners; an egregiously emotionally painful experience; poor staff-inmate relationships; the absence of meaningful work and employment readiness courses; inadequate facilities such as open toilets next to meals; and a lack of autonomy for prisoners that exacerbates institutionalization (Carlen 1982; Rideout 2006). To some extent, these failures can be understood as part of the legacy of previous eras of prison design and philosophies of prison, such as the Victorian era’s use of bare cells to encourage “meditation on the transcendent” (McConville 2000: 9). There is no reason to repeat mistakes of the past; thus, architects should avoid reproducing past prison designs and instead think critically about the needs of modern prisons. Their designs ought to be flexible enough to be adapted over time as philosophies of prison management change (Rideout 2007). The great danger is that outdated designs will live on to negatively impact generations of prisoners, just as Victorian era designs brought a harshly punitive architecture into an age of humane rehabilitation (Rideout 2006).

In order to investigate what modern prison design can achieve, it is useful to first think conceptually about what prison could be at its finest. Theorists such as Comfort (2007) and Morgan and Liebling (2007) suggest prison can be seen as an *opportunity* to help people lead better lives, rather than just a necessary evil. Many of the imprisoned have suffered from a lack of educational opportunities, unresolved mental health problems, and ineffective inculcation of social values. Prison can help pinpoint these deficits and attempt to remedy them, thereby helping to both reduce recidivism and aid prisoners in leading productive lives. As a “full-service” institution, it can educate prisoners, give them opportunities for work, help diagnose and treat mental illness, and attempt to inculcate positive values, although some would critique a full-service paradigm for being overly generous (Fairweather 2000a; see Reeder *et al.* 1997).

With respect to the architecture of a modern prison, there are examples of smaller, open, lower-security prisons of the sort exemplified by the Woodhill Prison in Milton Keynes (Fairweather 2000a). Such prisons are often designed within a community in order to use support services such as its hospitals, factories, and schools, and thereby reduce costs (Shaw 2000). In the balance that they seek between safety and humane treatment, these institutions are more akin to hostels than fortified industrial complexes (Shaw 2000). Yet despite their seeming laxness, their rules can be quite strict: inmates who break the rules are at risk of immediately being sent back to more punitive, higher security prisons (Rideout 2006).

One novel approach to the modern prison is Rideout’s (2006) “creative prison”. It envisions a prison built for low-risk prisoners with a humane governing philosophy that

includes a balance of rights and responsibilities, cooperation and compulsion. It is notable for strong relationships between staff and inmates as well as strong ties to the local community. There is freedom of movement, for the most part, perhaps coupled with security cameras or identity tags, as well as access to work, education, and the Internet. Prisoners are listened to and taken seriously and have the ability to influence the regime; there is, in essence, community and limited democracy. These aspects enhance the prison's legitimacy because they allow participation and represent values of dignity and respect (Tyler 2004; Hough *et al.* 2010; see also Bosworth *et al.* 2005). As a result, prisoners are more likely to behave, which in turn eases the staff's job (Beetham 1990). Conceptually, the main goal of the creative prison is to prepare prisoners for the future: education and work training start immediately. Prisoners receive wages for their work, which helps them practice budgeting and inculcates the rewards of work (Rideout 2006). They are also given greater autonomy than in traditional prisons: for example, they can use computers to order goods, report problems, and complete visitor applications. The staff role transforms from "providers" to mentors in an attempt to avoid institutionalizing prisoners (Rideout 2006).

The layout of rooms and facilities in the creative prison reflects its goals. Rooms are akin to college dorm rooms, with furniture consisting of large beds, a chair, a desk big enough for books to be spread, TV or computer with Internet access, and shelving. There is also storage space for clothes and books, a lighting control, a view onto the prison grounds, and an ensuite bathroom. A terminal attached to the cell allows prisoners to speak with a listener 24/7 to help stave off isolation and depression (Rideout 2006). Prison facilities include spaces for education, training, employment, and individual and group counseling, including drug/alcohol counseling (Rideout 2007). There is a health clinic on site or nearby space for visitors and family.

The architecture of the creative prison is somewhat exemplified by the Spring Hill prison in the United Kingdom, a low-security prison in Buckinghamshire for non-violent offenders who are within two years of scheduled release. It is an open prison with no fences, though there is a curfew; prisoners get their own keys and rooms, akin to what has been used in Scandinavian prisons (Pratt and Larsson 2011). The institutional philosophy is to help inmates prepare to re-enter society. To that end, there is a job training center and prisoners work in neighboring communities, usually going by bus. They are encouraged to be as self-sufficient as possible. The role of the guard within this philosophy is more akin to a mentor, fitting with the Rogerian idea that people improve within the context of supportive relationships. Prisoners are meant to be treated with respect and the prison governor is on a first-name basis with prisoners. Spring Hill offers activities that mirror many of the nudges suggested here, including nudges against isolation through team sports and against suicidality via linking prisoners to anonymous counseling.

Yet Spring Hill combines these moderating elements with strict adherence to the relatively few rules it has. The consequences for breaking the rules, such as the prohibition on drugs, are harsh. For example, inmates who break curfew or are found with alcohol can be immediately reassigned to higher-security programs, in keeping with the institutional philosophy of respect for the rules and taking responsibility for one's actions. Ironically, the modern prison can use the threat of harsher, "traditional" prisons as a deterrent against breaking the rules. Yet it could also be argued that such a practice is

overly punitive and it would be better to punish prisoners internally, perhaps by taking away privileges or giving additional chores as punishment. Leaving intact some aspect of a disciplinary regime may also be beneficial because, from a policy perspective, there is a risk that the public will turn against modern prisons that the media portrays as overly lenient.

Partridge (2000: 97) has written about the goal of creating a “civilized and humane prison environment, dedicated not only to security, but to education, reform, and rehabilitation.” In this section, I have articulated a concept for a modern prison that lives up to those lofty ideals and prepares prisoners for life outside the prison gates. Prisons such as the Spring Hill prison are already acting according to the precepts of the modern prison and even utilize a variety of nudges. If more prisons are to adopt such innovative designs, the policymakers who serve as prison architects must reject the status quo. Instead, they must think carefully and concretely about what prison ought to achieve, and match the architecture to the institutional goals and aspirations.

## A RESPONSE TO THE CRITICS

Critics will find many reasons for pessimism about the prospects for reforming the penal estate. The United States prison population has grown astronomically in the past three decades (James 2013). Much of this growth is in high security prisons built in anachronistic styles. The muddled logic to the design of the prison estate remains hegemonic and entrenched; prison reform efforts seem to have stalled. Inertia seems to be on the side of the status quo in prisons, especially given the incentives of prison governors (Carlen 2002). Prospects for reform by way of Loader’s (2010) “moderation as politics” or “moderation by stealth” look bleak. Yet there is still hope for a better way forward in the guise of “moderation by nudge”.

With respect to the prospect of using nudges in prison architecture, critics may point out that not *all* the nudges and policy shifts suggested here will work. But that does not imply that *some* of them would not work, or that these or other nudges could not greatly contribute to human welfare. Though this article gives numerous examples of potential nudges, the intention was not to recommend specific nudges (though some of those suggested, such as painting prisoner rooms in softer or brighter colors, are deeply uncontroversial and well within the prerogative of prison wardens). Rather, the goal was to generally encourage using decision science to help address the problems of prison reform. A critic may maintain that prisons are inherently risk-averse institutions unlikely to try new initiatives; yet the very selling point of nudges is that they are cheap, judicious, and practical (Carlen 2002). They hold great potential appeal to politicians and wardens for these reasons.

Critics may point out that many of the reforms suggested are not merely nudges, but would amount to full pushes, and that furthermore, the approach suggested merely represents the general discourse of prison reform cloaked in new rhetorical language. This attack, though, is specious. Nudges and other changes in architecture need not be made in a vacuum, nor are they likely to be. Rather, they are likely to be made in the context of a variety of other reform efforts small and large. I have explored the uses of

nudges specifically within the context and literature of prison reform in order to make use of existing good ideas and to tease out which efforts amount to nudges and which amount to full pushes that may be more difficult to implement. That, however, does not imply that the use of nudges is limited to merely serving as a rebranding of old ideas. The possibilities for nudges in the prison context are limited only by the creativity of those developing them.

The attack that nudges ought not to be used in the context of imprisoned human beings, for human rights reasons, and that such policies represent nefarious meddling by bureaucrats, is misguided as well. As Sunstein and Thaler (2008) point out, there is *always* an architecture within a context, whether or not we choose to acknowledge it and attempt to influence it or not. It is nonsensical to simply ignore the existing architecture, especially if that results in needless human rights abuses and excessive psychological, social, economic, and personal costs. It is more practical, efficient, and humane to attempt to influence the architecture in ways which contribute to human rights and reduce such costs.

## CONCLUSION

Nudges in prison architecture cannot fix the underlying social fabric. They cannot repair the great economic, social, and educational disadvantages which affected the prison population *before* they were imprisoned (Morgan and Liebling 2007). Nor do they address the fact that prison remains an inherently bad economic signal, to use Becker's (1975) and Spence's (1973) terminology, which can cause lifelong stigma and irreparably damage future job prospects. They will be of little comfort to anti-prison activists who favor a full push approach. What they do, instead, is make subtle changes that can help to improve the lives of prisoners significantly, and their families, and working conditions for prison staff. They have the potential to positively contribute to outcomes such as recidivism and make a lasting contribution to society.

Hulten (2000: 122) conceptualizes prisoners as "citizens temporarily removed from society, but almost certain to return there, with all their civil rights." The goal, then, is to help prevent them from becoming persistent re-offenders. What I have argued is that a novel approach to prison architecture can reduce costs and improve the prospects for prisoners to successfully reintegrate into society. I have demonstrated how nudges can make a powerful difference for improving the psychological and emotional experience of prisoners. I have also drawn attention to the manner in which architecture in the modern prison can be reconceptualized in order to better aid in rehabilitation. It is my hope that the initiatives described here will be further explored and may be used to affect public policy as it relates to the present and future governance of prisons.

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