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# From Ineffective Severity to Softer Justice

The Finnish prison reform and sharing of good practices

TAINA COOKE

WORKING PAPERS

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## Executive Summary

In recent years, the Finnish sanctions system and prisons have drawn positive international attention with falling prisoner numbers and low reoffending rates. This has not, however, always been the case. Due to overcrowding prisons and criticism towards harsh penal policies Finland managed to reform all the main parts of the criminal legislation within a relatively short period of time. Through changing the policies and adapting new forms of punishment from the 1970's onwards, Finland successfully came out of the prison crisis and reformed the penal policy system.

The concerning state of UK's prisons requires more attention and new, effective measures in order to alleviate the situation. Further collaboration between Finland and the UK might produce particularly successful results. Possible forms of collaboration, in which the best practices are shared and spread, include:

- Fellowship programmes that enable transnational mobility among prison experts and support long-lasting professional relationships
- Discussion forums for prisoners or ex-prisoners
- Joint events and seminars
- Prison visitations

### About the author

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## 1. Introduction

Imprisonment is a highly problematic form of punishment. Used in a correct manner, it has the potential of reducing crime and making the streets of our cities safer. Incarcerating the serious wrongdoers sends a strong message to wider society and helps in making the line between right and wrong more distinct. When overused, however, the outcomes quickly become concerning. Prison, rather than a temporal stopping place, becomes a home, a permanent way of life for many criminals, who will one day find it extremely difficult to adapt back to society and the so-called normal life.

In many prisons the punishment fails to be a mere loss of freedom. In the UK prisoners are deprived of some of their core civil rights, such as voting and adequate health care. Mental health issues are common in prisons and too often they worsen during incarceration. When there is little emphasis on rehabilitation the prison sentence bears a risk of becoming a lot more than just a temporary form of punishment – it can take over one's entire life. Not only is that unfair from the point of view of the convicted person, but it also increases the risk posed to the rest of society. If people come out of prison more dangerous than they were when they first entered the institution, how does that help in making our streets safer?

One of the most powerful arguments against the heavy use of incarceration can be made through examining the costs. Running prisons is extremely expensive and the efforts to cut the costs are being made on a regular basis. UK prisons are running on decreasing budgets even when the number of inmates is rising dramatically. The ongoing prison crisis is largely acknowledged, but unfortunately too little is currently being done to alleviate the situation. The present state of affairs is unsustainable and there is an urgent need for policy reform.

In Finland imprisonment is used to a more limited extent and could, perhaps, be described as less total. The loss of freedom is seen as sufficient punishment in itself and additional constraints are not viewed as necessary. Based on the imprisonment rate as well as the reoffending figure, Finland's sanctions system and prisons seem to be performing commendably. Rehabilitation is seen as a crucial part of incarceration and there is a strong emphasis on self-development, education and work. Prison

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practice might seem like an unconventional source of pride and international hype at first, but there might be real potential in sharing the ideas and practices of working prison systems globally.

Imprisonment as a form of punishment is widely used all over the world, but there are significant differences in, for example, criminalisation processes as well as in the lengths of sentences. The sanctions system of a country is always inseparably connected to its specific history and culture. As a result, an incarceration practice that works in one place might not automatically have similar results in a different setting. On the other hand, however, societies face great changes all the time and are capable of adapting in challenging situations.

There is some great potential in testing proven prison practices outside the original context. It can be argued that a particularly promising case can be made for collaboration between the UK and Finland. While other Northern European countries, such as Sweden and Norway, have well functioning prison systems too, there are reasonable grounds for the UK to take lessons particularly from Finland. The rationale for this is outlined later. First, however, a brief introduction to both, British and Finnish systems, is presented.

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## 2. The UK sanctions system and imprisonment

### 2.1 Brief history and development

In the 16<sup>th</sup> and 17<sup>th</sup> centuries sanctions for criminal actions were generally events of public humiliation or death. The ducking stool and whipping were common practices, and prison was only used as a place to hold a person before the upcoming trial or punishment. In the 18<sup>th</sup> century transportation was a widely used method of dealing with criminals and the death penalty became less used. Criminals were in most cases shipped to the British colonies, such as America, Tasmania and Australia. Imprisonment became more common by the mid-18<sup>th</sup> century as it was now regarded as a suitable sanction for petty offenders. The condition of prisons was poor and the sanctions system was rather unorganised. In 1791 Jeremy Bentham designed the model for prison building, called ‘panopticon’, which allowed a single watchman to observe all the inmates.<sup>1</sup>

In the 19<sup>th</sup> century shaming actions were largely abolished and imprisonment replaced several out-dated forms of punishments. The beginning of this century marked the birth of state prison system and by the end of the century even small local prisons were controlled centrally. By the 20<sup>th</sup> century ideas relating to penal reform were becoming increasingly popular and, for example, special treatment for young people was demanded. The first open prison started to operate in 1933 and by the end of the following decade alternative punitive systems, such as detention centres and borstal institutions, were also introduced. Before the turn of the century a controversial new page was turned in the history of the British penal system, as the first privately owned prisons started operating.<sup>2</sup>

### 2.2 Prisons in the UK today

The sanctions system in the 21<sup>st</sup> century’s UK has been characterised by large and overcrowded prisons, lack of resources and failure to effectively reduce reoffending.

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<sup>1</sup> The Howard League of Penal Reform, History of the Prison System [www.howardleague.org/history-of-prison-system/](http://www.howardleague.org/history-of-prison-system/)

<sup>2</sup> The Howard League of Penal Reform, History of the Prison System [www.howardleague.org/history-of-prison-system/](http://www.howardleague.org/history-of-prison-system/)

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The imprisonment rate in England and Wales is 149 per 100 000 of the population.<sup>3</sup> In October 2014 the prison population was over 84 000 whereas in 1994 the average prison population was less than 49 000.<sup>4</sup> Prisons are operating at the very limits of their capacity as currently 80 of the 118 prisons in England and Wales are overcrowded.<sup>5</sup> Paradoxically, as the number of inmates has been skyrocketing the number of staff members has declined. Between 2010 and 2014 the number of full time staff employed in the public prisons was reduced by 12 530 – a drop of 28 %.<sup>6</sup>

People who end up in prison have often multiple problems, which are not properly dealt with during their sentence. In the 12 months prior to March 2014, there were in total 23 478 incidents of self-harm in prisons, 756 more than in the previous year.<sup>7</sup> A total of 75 inmates took their own lives in prisons in 2013, whereas in 2012 the number was 61.<sup>8</sup> Violence in prison is common and in 2013 there were over 11 000 recorded prisoner on prisoner assaults along with nearly 3 000 prisoner on officer incidents of violence.<sup>9</sup> Private prisons seem to be performing worse than public prisons as the state-owned institutes were found to be over five times more likely to receive good safety ratings than private prisons.<sup>10</sup> Moreover, every year for the past 16 years private prisons have held a higher percentage of their prisoners in overcrowded facilities than public sector prisons.<sup>11</sup>

The average length of a sentence in a UK prison is 15.5 months and it has increased by three months within the last ten years.<sup>12</sup> Also, those sentenced to life are now serving significantly longer in prisons than they were over ten years ago. The average time served for people sentenced to mandatory life imprisonment was 17 years in

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<sup>3</sup> Ministry of Justice (2014) Population and Capacity briefing for 10 October 2014, London: Ministry of Justice

<sup>4</sup> Table A1.2, Ministry of Justice (2014) Offender Management Statistics Prison Population 2014, London: Ministry of Justice

<sup>5</sup> Ministry of Justice (2014) Prison Population Monthly Bulletin September 2014, London: Ministry of Justice

<sup>6</sup> Table 2, Ministry of Justice (2014) National Offender Management Service workforce statistics bulletin: 30 June 2014, London: Ministry of Justice

<sup>7</sup> Table 3, Ministry of Justice (2014) Safety in Custody Statistics Quarterly Update to March 2014, London: Ministry of Justice

<sup>8</sup> Table 1.1, Ministry of Justice (2014) Safety in Custody Statistics Quarterly Update to March 2014 – Deaths in Custody 1978 to 2013, London: Ministry of Justice

<sup>9</sup> Table 3.8, Ministry of Justice (2014) Safety in Custody Statistics Quarterly Update to March 2014, London: Ministry of Justice

<sup>10</sup> HM Inspectorate of Prisons (2009) The prison characteristics that predict prisons being assessed as performing 'well': A thematic review by HM Chief Inspector of Prisons, London: HM Inspectorate of Prisons.

<sup>11</sup> Ministry of Justice (2014) Prison and Probation Trusts performance statistics 2013/14: Prison performance digest 2013-14, London: Ministry of Justice.

<sup>12</sup> Table Q5.1b, Ministry of Justice (2014) Criminal Justice Statistics Quarterly Update to March 2014, London: Ministry of Justice

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2013 whereas in 2001 it was 13 years.<sup>13</sup> Prisons often fail in engaging the inmates with meaningful activities as it was repeatedly found in spot checks that at least 25 % of a prisons population were locked up during the day with nothing to do.<sup>14</sup>

Prison has a poor record for reducing reoffending, as the share of adults who reconvict within one year of being released is currently 45.2 %.<sup>15</sup> It was found that even when the clear majority of inmates expressed a desire to stop offending, only 52 % thought they had done something, or that something had happened to them while in custody, that would make them less likely to commit crimes in future.<sup>16</sup> Failures in keeping people out of prisons come at a high price as the average cost of one prison place in 2012-13 was £36 808.<sup>17</sup>

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<sup>13</sup> Table A3.4, Ministry of Justice (2014) Offender Management Statistics Annual Tables 2013, London: Ministry of Justice

<sup>14</sup> HM Chief Inspector of Prisons (2012) Annual Report 2011-12, London: The Stationery Office

<sup>15</sup> Table 19a, Ministry of Justice (2014) Proven re-offending statistics quarterly, April 2011 to March 2012, London: Ministry of Justice

<sup>16</sup> HM Chief Inspector of Prisons (2012) Annual Report 2011-12, London: The Stationery Office

<sup>17</sup> Table 1, Ministry of Justice (2013) Costs per place and cost per prisoner by individual prison, National Offender Management Service Annual Report and Accounts 2012-13: Management Information Addendum, London: Ministry of Justice

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## 3. The Finnish sanctions system and imprisonment

### 3.1 Brief history and development

The Finnish sanctions system is relatively young as Finland has been an independent country only since 1917. Finland shares a very similar legal culture with other Nordic countries and the same laws were enforced both in Sweden and Finland until 1809. After that Finland was separated from Sweden and it remained an autonomous Grand Duchy of the Russian Empire until it declared full independence in 1917. The most interesting era regarding Finland's criminal justice system is the 20<sup>th</sup> century as the country underwent three wars (the 1918 Civil War and the two wars against the Soviet Union 1939-1944) and successfully reformed the Prison Law.<sup>18</sup>

In the 1950's post-war climate the crime rate increased and led to harsher criminal legislation. During this and the following decade, the criminal justice system of Finland was substantially more repressive than that of the other Nordic countries. The prisoner rates had been extremely high already from the early 20<sup>th</sup> century and during a peak in the 1920's there were as many as 350 prisoners per 100 000 of the population. The severity of Finnish penal policies meant that one month in Norwegian prison corresponded to three months in a Finnish counterpart.<sup>19</sup>

However, during the 1960's the criticism towards an overly severe Criminal Code and the excessive use of custodial sentences intensified and less repressive measures were called for. The new criminal political ideology was labelled as 'humane neo-classicism' and it underlined the principles of proportionality and predictability in sentencing. Under the new ideology, practices such as sentencing for general preventive reasons or perceived dangerousness were no longer seen as appropriate. The need and desire to reduce the use of custodial sentences was the driving force in renewing all the main parts of Finnish criminal legislation between 1970 and 1990.<sup>20</sup>

The Finnish prison law was reformed in several stages and the latest amendments were introduced in 2006. Alternative forms of punishment have become more

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<sup>18</sup> Lappi-Seppälä T (2009: 334) 'Imprisonment and Penal Policy in Finland', in P. Wahlberg & C. Lernestedt (eds) *Scandinavian Studies in Law. Vol. 54*. Stockholm: Stockholm Institute for Scandinavian Law.

<sup>19</sup> Lappi-Seppälä T (2009: 334, 348-9) 'Imprisonment and Penal Policy in Finland', in P. Wahlberg & C. Lernestedt (eds) *Scandinavian Studies in Law. Vol. 54*. Stockholm: Stockholm Institute for Scandinavian Law.

<sup>20</sup> Lappi-Seppälä T (2009: 334, 348-9) 'Imprisonment and Penal Policy in Finland', in P. Wahlberg & C. Lernestedt (eds) *Scandinavian Studies in Law. Vol. 54*. Stockholm: Stockholm Institute for Scandinavian Law.

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frequent and the use of fines, conditional imprisonment, community service and mediation have successfully decreased incarceration. Prison sentences have shortened and the life in prison is adjusted more around rehabilitation rather than merely punishing. In a modern Finnish prison prisoners retain all their fundamental rights and these rights can only be restricted by the power of statutory parliamentary law and in accordance with international human rights. It is widely emphasised that the content of imprisonment should only be the loss of liberty and that prisoners are to be treated in a fair and humane way.<sup>21</sup>

### 3.2 Prisons in Finland today

The population of Finland is just under 5.5 million<sup>22</sup> and the number of people incarcerated at the end of 2013 was 3 011.<sup>23</sup> This translates into an imprisonment rate of 55 per 100 000 of the population. Just over two thirds (2 161) of the prison population was kept in closed prisons and the rest (850) served their sentences in open prisons.<sup>24</sup> In 2013 the average age of a prisoner was 37<sup>25</sup> and the median sentence length was 10 months<sup>26</sup>. In the same year the average length of a life sentence was 13.6 years, which was lowest it has been since 2008<sup>27</sup>. Prisons in Finland are considerably smaller than the ones in the UK and there are as many as 26 prisons in the country – all of which are owned and ran by the state<sup>28</sup>.

In Finland the rehabilitative aspect of prison is emphasised and a lot of attention is paid on the ways in which inmates use their time. In 2013 approximately one third of the prisoners worked regularly and 1 722 inmates made use of their time by studying at some point during the year.<sup>29</sup> The number of, what could be described as full-time students, was 218 and a total of 124 prisoners were allowed to take part in studying

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<sup>21</sup> Lappi-Seppälä T (2009: 336-342) 'Imprisonment and Penal Policy in Finland', in P. Wahlberg & C. Lernerstedt (eds) *Scandinavian Studies in Law. Vol. 54*. Stockholm: Stockholm Institute for Scandinavian Law.

<sup>22</sup> Väestörekisterikeskus (Finnish Population Register Centre) <http://vrk.fi/default.aspx?site=4>, accessed on 6.1.2014

<sup>23</sup> Table 1, Finnish Criminal Sanctions Agency (2013) *Rikosseuraamuslaitoksen tilastoja 2013*. Helsinki: Kopijyvä 2014.

<sup>24</sup> Table 1, Finnish Criminal Sanctions Agency (2013) *Rikosseuraamuslaitoksen tilastoja 2013*. Helsinki: Kopijyvä 2014.

<sup>25</sup> Finnish Criminal Sanctions Agency (2013:8) *Rikosseuraamuslaitoksen tilastoja 2013*. Helsinki: Kopijyvä 2014.

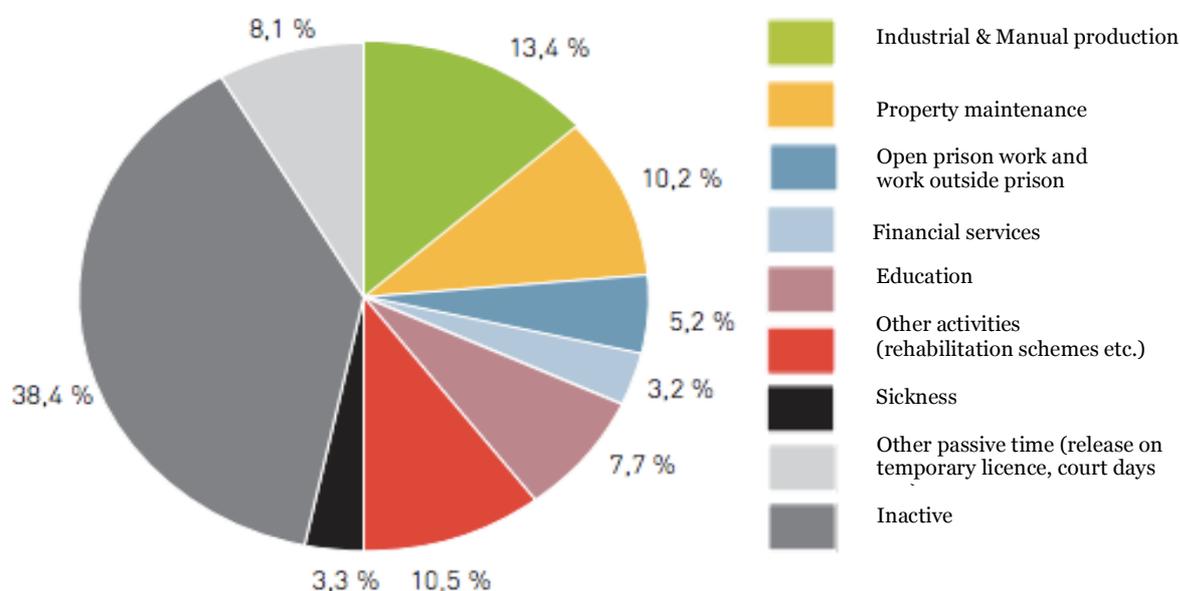
<sup>26</sup> Table 7, Finnish Criminal Sanctions Agency (2013) *Rikosseuraamuslaitoksen tilastoja 2013*. Helsinki: Kopijyvä 2014.

<sup>27</sup> Table 12, Finnish Criminal Sanctions Agency (2013) *Rikosseuraamuslaitoksen tilastoja 2013*. Helsinki: Kopijyvä 2014.

<sup>28</sup> Table 24, Finnish Criminal Sanctions Agency (2013) *Rikosseuraamuslaitoksen tilastoja 2013*. Helsinki: Kopijyvä 2014.

<sup>29</sup> Finnish Criminal Sanctions Agency (2013:11) *Rikosseuraamuslaitoksen tilastoja 2013*. Helsinki: Kopijyvä 2014.

programmes outside the prison.<sup>30</sup> Other programmes and organised activities, such as different rehabilitation schemes, were regularly attended by approximately 10 % of the prisoners.<sup>31</sup> The chart displayed below shows how prisoners allocated their time for various activities in an average weekday in 2013.



Source: Chart 6, Finnish Criminal Sanctions Agency (2013)

Young people and women only make up a small portion of the prison population in Finland. In 2013 there was an average of 82 prisoners under the age of 21, of which only 8 were between the ages of 15 and 17.<sup>32</sup> At the end of 2013 the number of female prisoners was 222, which constituted just over 7 % of the whole prison population.<sup>33</sup> Fortunately Finland has not faced resource cuts quite as severe as the ones in the UK, and the prison costs have been somewhat stable in recent years. According to a statement from the Director General of Finnish Prison and Probation Service, Esa Vesterbacka, one year in prison costs the state approximately 79 000 euros which is equivalent to 62 000 pounds.<sup>34</sup>

<sup>30</sup> Finnish Criminal Sanctions Agency (2013:11) Rikosseuraamuslaitoksen tilastoja 2013. Helsinki: Kopijyvä 2014.

<sup>31</sup> Finnish Criminal Sanctions Agency (2013:12) Rikosseuraamuslaitoksen tilastoja 2013. Helsinki: Kopijyvä 2014.

<sup>32</sup> Table 3, Finnish Criminal Sanctions Agency (2013) Rikosseuraamuslaitoksen tilastoja 2013. Helsinki: Kopijyvä 2014.

<sup>33</sup> Table 1, Finnish Criminal Sanctions Agency (2013) Rikosseuraamuslaitoksen tilastoja 2013. Helsinki: Kopijyvä 2014.

<sup>34</sup> Savon Sanomat 14.3.2014, [www.savonsanomat.fi/savo/yha-harvempi-vanki-tekee-uuden-rikoksen/1784036](http://www.savonsanomat.fi/savo/yha-harvempi-vanki-tekee-uuden-rikoksen/1784036), accessed on 6.1.2015

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## 4. How did Finland do it – and could the UK follow the same steps?

Finland managed to effectively reduce the number of prisoners within a relatively short period of time even when the actual crime rates did not decline.<sup>35</sup> Overcrowding prisons and increasing costs of imprisonment forced the experts to look into other ways of dealing with offenders, and the change in penal practices was carried out successfully for a number of reasons. Firstly, it can be argued that due to Finland's history as a highly equal and democratic country, the vastly shared idea of 'sameness' was likely to act as barrier to hardening forms of punishment.<sup>36</sup> Finland does not have a class society background and there has been no need for dramatic and highly symbolic spectacles of punishment as a way of reaffirming power of the ruling class.<sup>37</sup> This historical and cultural background combined with the fairly stable and coherent political atmosphere of the latter 20<sup>th</sup> century, created sound foundations for a well-executed prison reform.

Other factors, which helped to execute the prison reform in Finland included strong political will and consensus, an expert-driven way of operating and the 'anti-sensational' role of media.<sup>38</sup> There is a noticeable difference between the British and Finnish crime reports and Finns have, to a large extent, been saved from low-level populism.<sup>39</sup> A relatively small group of experts, whose thinking of criminal policy followed similar lines, was able to carry out the reforms without strong opposition. Furthermore, crime control has not been a central political issue in Finnish election campaigns, and the close personal and professional contacts with senior politicians and academic researchers significantly furthered the reform process.<sup>40</sup>

The historical background, political climate and media scene in the UK are largely contrasting to the Finnish counterparts. The hierarchical structure of society, rising

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<sup>35</sup> Lappi-Seppälä T (2009: 362) 'Imprisonment and Penal Policy in Finland', in P. Wahlberg & C. Lernestedt (eds) *Scandinavian Studies in Law. Vol. 54*. Stockholm: Stockholm Institute for Scandinavian Law.

<sup>36</sup> Pratt J (2008) Scandinavian Exceptionalism in an era of penal excess. Part I: The Nature and Roots of Scandinavian Exceptionalism, in *British Journal of Criminology* 48, 2:129.

<sup>37</sup> Pratt J (2008) Scandinavian Exceptionalism in an era of penal excess. Part I: The Nature and Roots of Scandinavian Exceptionalism, in *British Journal of Criminology* 48, 2:129.

<sup>38</sup> Lappi-Seppälä T (2009: 362-3) 'Imprisonment and Penal Policy in Finland', in P. Wahlberg & C. Lernestedt (eds) *Scandinavian Studies in Law. Vol. 54*. Stockholm: Stockholm Institute for Scandinavian Law.

<sup>39</sup> Lappi-Seppälä T (2009: 363) 'Imprisonment and Penal Policy in Finland', in P. Wahlberg & C. Lernestedt (eds) *Scandinavian Studies in Law. Vol. 54*. Stockholm: Stockholm Institute for Scandinavian Law.

<sup>40</sup> Lappi-Seppälä T (2009: 363) 'Imprisonment and Penal Policy in Finland', in P. Wahlberg & C. Lernestedt (eds) *Scandinavian Studies in Law. Vol. 54*. Stockholm: Stockholm Institute for Scandinavian Law.

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populism and tabloid press create a challenging – yet by no means impossible – environment for change in penal policies in the UK. Despite the differences, a highly promising case can be made for collaboration between the UK and Finland. Not only do the countries share a European location, Western lifestyle and culture, but also a similar experience of a prison crisis.

Unlike other Nordic countries, which have performed steadily well, Finland managed to take a new direction after years of high imprisonment rates and harsh penal policies. Finland turned a desperate situation around and even when the crime levels did not fall, imprisonment rates were forced to drop significantly. Unlike a common man might think, there is no consistent correlation between the levels of crime and imprisonment numbers and, in fact, crime rates fell by 14 % in the year ending March 2014 in the UK.<sup>41</sup> Paradoxically, despite the falling crime rates, more and more people are still being locked up in the UK. Needless to say, something has to change in the criminalisation processes and policy making.

In the UK, a lot of important work is currently being done towards urging reforms in penal policies forward, but the issue requires even greater attention. The lack of political will seems to be one of the key challenges, as no major political party has yet been daring enough to take on such a controversial topic. By broadening discussion around the topic and bringing on board new perspectives, the prison crisis and desired reforms would receive more much needed attention. Creating new partnerships and forms of collaboration between Finland and the UK might produce particularly successful results. Sharing and spreading best practice through, for example, joint events and seminars, fellowship programmes and prison visitations could certainly bear fruit. Public opinion, as well as the political ethos, might well become more favourable towards prison reform when an example of a successful change from a recent history can be given.

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<sup>41</sup> Table 1, Office for National Statistics (2014) Crime in England and Wales, Year Ending March 2014, London: ONS.

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