



Impact Justice

Impact Justice is a criminal justice innovation and research center.

Sep 26 · 13 min read

Build It and They Won't Come

By Alex Busansky

Could envisioning smaller scale, more humane prisons be a key to ending mass incarceration?

I run an organization that dares to dream of a humane and restorative justice system in America. We also work to improve conditions inside jails and prisons, which can sometimes feel like a contradiction—or worse. Could our efforts to make facilities more humane places inadvertently prolong mass incarceration? It wouldn't be the first time; the United States has a long and unproud history of prison reforms gone awry.

It wasn't until I got outside of America that I became confident both areas of work are essential. In both Finland and Norway I saw compelling evidence that humane correctional facilities are actually essential to reaching and sustaining low rates of incarceration.

I travelled to Scandinavia with group of students from the Yale School of Architecture and their teachers: legendary architect Frank Gehry and Yale Critic Trattie Davies. I was surrounded by the creative buzz of young minds grappling with a daunting assignment: envision how prison in United States might look and function in a not-too-distant future when we are incarcerating many fewer people and treating them as people. Their work and a similar studio at SCI-Arc (Southern California Institute for Architecture), also led by Frank Gehry, are the subject of new feature-length documentary film called "Frank Gehry: Building Justice."

The idea underlying these studios is that America will never move beyond the massive, brutal and failed institutions we have now unless we can clearly picture an alternative. My organization, Impact Justice,

and activist Susan Burton were partners with Frank Gehry in the studios. We all believe that architects and other designers can make a meaningful contribution to imagining and shaping a future without mass incarceration. Engaging their creativity and very different skill set in changing conditions of confinement—and also promoting restorative justice—is the premise of our ongoing project, also called Building Justice.

Because the students were asked to design something with no American precedent, we took them to Scandinavia for inspiration and insight. And since the paths to Norway's now-famous facilities—high security Halden and the open prison on the bucolic island of Bastoy—were well trod, our group also explored neighboring Finland, a country with a similar approach to punishment but fewer resources.

While the trip was organized for the students, I was no less amazed. Pictures don't fully capture the handsome architecture and natural landscape at Halden, light years from any U.S. prison. External beauty is one thing, but what most surprised me were the rhythms of the facility and the dynamics between staff and prisoners.

In the company of our guide Erik, our group left the main administrative building and walked up a hill along a nature park toward one of the residential units. The park couldn't have been more inviting and serene, yet was mysteriously empty of people. We later learned that prisoners are only allowed access if accompanied by a staff member—a reminder that while Halden may resemble a college campus, as many people have commented, the roughly 250 men incarcerated there have very little freedom of movement.

Inside, however, I observed interactions between staff and prisoners that were far more warm and relaxed than in any high security facility in the United States. As we entered a housing unit where just a handful of prisoners live in a semi-communal environment, Erik launched into easy conversation and playful physical contact with one of the residents, a slightly built young man with brown skin. It was the kind of greeting a high school teacher might offer a familiar student—and Erik knew this prisoner well because he was his contact officer, a role akin to a counselor or caseworker.

Corrections officers in Norway receive two full years of training to prepare them for the task of building relationships with incarcerated people, not merely supervising them. The limited training U.S. correctional officers receive and entrenched power dynamics established to control large inmate populations make such camaraderie nearly impossible and potentially unsafe for prisoners.

Erik encouraged him to speak freely and then took a seat at the other end of the room on one of the three comfortable couches. This young man talked about his life in the facility: That he's enrolled in college, studying sociology, and that his prison job is to cook dinner for the other men in the house, a role he didn't relish but felt suited him. (Each prisoner prepares his own breakfast and lunch in the shared kitchen.) He showed us his room and private bath, both small but nicely appointed and bright, and he told us he felt safe in the prison. That statement alone made it clear how far we were from the United States.

Back in the communal living room/kitchen, with afternoon sunlight filtering through a large picture window, one of us asked what, if anything, he would change about Halden. His answer was yet another surprise. He said he would burn the whole place down. His antipathy amidst relative physical comfort only began to make sense when we stepped outside to the adjacent lawn and felt the emotional force of the prison's high cement wall, not set back in the forest, but just a few yards away.

One of the architects who designed Halden told us later that afternoon that before the prison opened she asked to be locked in one of the rooms overnight, to see what it felt like. It was much harder than she expected, she said, to cope with the feeling of being trapped, even for a night. There simply is no substitute for freedom, I reflected.

There's a persistent belief in America that if the experience of incarceration is too comfortable—too “soft”—it will no longer function as punishment. We learned in Scandinavia that it's virtually impossible to mute the effect of being separated from family and community and the narrowing of one's life and individual expression that is an inevitable consequence of confinement.

* * *

Because we were looking for innovation in design, we didn't expect to learn much as we approached the foreboding Victorian-era prison in the middle of a residential neighborhood in Helsinki, but it too shaped my thinking about what it takes to foster humanity within confinement.

Helsinki prison was a last-minute addition to the itinerary. After visiting one of Finland's open prisons—more than a third of inmates are assigned to an open facility—our guide Virva Ojanperä from the national correctional services suggested we also see a high security, “closed” prison. Among the four facilities we visited in Scandinavia, it is the only one that might be mistaken in photographs for a prison in the United States—until you actually get inside.

It was raining and chilly that day, so to walk into a warm building and encounter the homey smell of sweet spice was as pleasant as it was jarring. “Oh, they must have been baking,” Virva said in an offhand way. Sure enough, a little further down this residential wing on the left was a small communal kitchen equipped with an oven.

Built in 1881 and protected as a historic landmark, the prison has been totally reconfigured inside to house many fewer people in much better living conditions. In place of tiny back-to-back window-less cells, the residential wings are now comprised of just 10 private cells, each with at least one wide window that opens and a private bathroom. Prisoners are given hook rugs and curtains, and the heavy metal cell doors are designed to close softly, not with a nerve-wracking clang.

Housing more than 10 people together, the prison director told us, would require a greater degree of supervision and control that would undermine the environment. It was easy to understand what he meant: the atmosphere wasn't tense or especially regimented. The men incarcerated there are not only free to move throughout their own wing during the day, they can also walk unaccompanied to many other areas of the facility.

Perhaps most surprising were the prison's two saunas. Sauna, Virva explained, is integral to Finnish culture, much like the right to vote is

integral to citizenship, so like other members of Finnish society prisoners vote and partake in Sauna. Beauty may be a balm to the soul, but I discovered in Scandinavia that a prison doesn't have to be beautiful to be humane, and beauty alone is hardly enough.

* * *

Both attractive and less so, open and closed, Scandinavia's prisons are only part of the Nordic story. What's equally extraordinary are the exceptionally low rates of incarceration: 74 per 100k in Norway and even less in Finland—57 people per 100,000k—a fraction of the U.S. rate of 666, as of 2017.

Most people assume those low rates are what allow the Scandinavians to run humane prisons. But the opposite is also true: the prisons themselves suppress the use of incarceration. Yes, better outcomes slow the revolving door that would otherwise send more people back to prison, but even more significant are the built-in limitations: Their prisons cannot be scaled up and still retain the same humane character. It would be far too expensive, even in these relatively wealthy countries, to build and run a slew of small prisons.

Officials who oversee and work in corrections understand this reality and so do, it seems, many politicians and a majority of voters. Even the laws and norms that underlie these humane prison environments—a commitment to human dignity, the principle of normality in corrections, and much shorter sentences than here in America—are upheld in part by the humane prison environment. It's a virtuous circle.

What Finland and Norway have achieved is a humane form of confinement created and preserved through rationing and other restrictions on the urge to punish excessively. These are countries that take incarceration seriously and scale it down accordingly. Historically low by American standards, Finland cut its incarceration rate roughly in half to get down to 57 people per 100,000. Here in the United States, by contrast, incarceration is used so often—and so often without due regard for its gravity and far-reaching consequences—that it can fail to seem like punishment to a public looking on from a distance, unless the

environment is excessively harsh and degrading. If theirs is a virtuous circle, ours is a vicious one.

It's tempting to dismiss Scandinavia as simply too different from the United States to make comparisons relevant. But America was not always such an outlier, at least in terms of rates of incarceration. Up until the early-1970s, prison incarceration rates hovered around 100 people per 100,000. And in 1972, the first year that jail population counts were incorporated, the combined rate was 161. While that's roughly three-times the rate in Finland today and twice the rate in Norway, it's still proof that America doesn't have to become a social welfare state to dramatically scale back the use of incarceration. We have a lot to learn from Scandinavia about the symbiotic relationship between humane conditions in prison and jail, low rates of incarceration, and what a society defines as appropriate punishment.

In our history of slavery on American soil, however, the United States is very different from Scandinavia and anywhere else in Europe. As others have expertly documented, mass incarceration is a direct legacy of slavery, Jim Crow and an array of conscious policies designed to trap African Americans and later Latinos as well in highly impoverished neighborhoods. Prison and jail became and remains a means of oppression, disproportionately targeting black and brown people. While the incarceration rate nationally tops 600 per 100,000, the rate for Black people in most states ranges from 2,000 to 3,000.

As America incarcerated more and more people of color, the environment in prison and jail became increasingly degrading and unsafe, either by default through crowding or intentionally through design. Over time prisons and jails in this country have morphed into increasingly controlled and harsh environments where security and cost are the overriding concerns. There is a thread within our larger history of people trying to fashion correctional institutions that balance the urge to punish and control with other, more humane goals and principles. But the results often were not what those reformers expected and wanted.

One of America's first prisons was an attempt at radical reform. While some were focused on harnessing the free labor of convicts, a group of Quakers in Philadelphia applied Enlightenment era principles to the

design of Eastern State Penitentiary. But instead of inspiring reflection and penitence—hence the name penitentiary—the experience of being confined in monastic-like cells drove people mad. That solitary confinement was later used on a massive scale is a travesty of justice.

A century later, in the midst of a progressive era typified by the New Deal, prison reformers in New York City began building a jail on Rikers Island they hoped would also function as a social services agency, providing help and opportunities most poor people in jail never had. With such a lofty goal, bigger seemed better and was facilitated by a bridge connecting the island to the city's main arteries. Rikers always fell short of the vision that spurred its creation, and once rehabilitation went out of fashion the sprawling complex devolved to epitomize the worst in correctional practice: places where humiliation, intimidation, violence and neglect are routine.

Across the country in Southern California, a free thinking warden created a prison where the men wore normal clothes, were treated with respect, and had considerable independence within the facility. Families visited regularly, and the only fence was waist high and intended to keep out livestock grazing nearby. As the story goes, a single escape and high-profile crime changed everything. But a bigger shift was also occurring: California prisons that once held mainly white men were taking in a larger number of Blacks and Latinos.

* * *

American cities and states are currently building the next generation of prisons and jails. Thankfully, construction is not proceeding as fast and furious as in the past, but crumbling buildings and outdated designs known to foster a negative culture are being replaced. It's an open question whether facilities yet to be built could represent truly meaningful improvements over their predecessors in terms of the lived experience for incarcerated men and women and for staff.

New York City is once again embarking on a new era of corrections, with a commitment to cut the jail population in half following already significant reductions and to replace Rikers Island with facilities in each Borough. The Director of the NYC Mayor's Office of Criminal Justice

Elizabeth Glazer has said these jails should be “civic assets” in their physical expression, location and internal culture.

Any decision to build a new jail or prison should trigger nothing less than soul searching about our country’s past and our future. Practical concerns should be balanced by a willingness to challenge convention and gamble on new ideas. Listening to people who have been incarcerated is essential, especially here in the United States where they have been demonized and silenced, and where even well-intentioned reforms have swung between two equally dehumanizing impulses: to control people or to fix them.

For all these reasons, I was eager to see what the Yale students designed when they presented their work before a jury that included several highly acclaimed architects, two philanthropists who invest heavily in criminal justice reform, and two formerly incarcerated people.

Those designs might appear fantastic to some, but not to me after my journey “inside” in Finland and Norway. The most interesting designs accepted prison as a form of punishment—the most consequential other than death—and worked within that reality. That’s a very different impulse than attempting to create a model of confinement that isn’t punishment—a feat not only impossible, but also immoral. After life, liberty is the most fundamental of human rights. And if it’s merely help someone needs, that assistance shouldn’t be provided from behind a locked door. The considerable progress the Nordic countries have made in building prisons that respect peoples’ rights as individuals and citizens and also in sustaining very low rates of incarceration begins with respecting the right to liberty and worrying greatly over its restriction.

I noticed that the students invented or reconfigured spaces to make the restriction of liberty more humane and livable day to day. They didn’t mimic what they saw in Scandinavia but were clearly inspired by it. Confronting the monotony of “doing time,” even in a resource-rich prison of the future, and the inevitable experience of separation, one student designed cells in which already-tall windows bent and extended to become skylights—a way for someone in prison to connect to the cycles of a day and the seasons. It might sound trivial, but not if you

realize that many prisoners in the United States today have lived for years without a view of the sunset, the moon or the stars.

I saw an echo of Halden's park in an elevated spiral walkway intended for self-directed reflection and meditation. One student extended an existing bike trail to bisect the prison campus, making creative use of differing elevations to maintain security while promoting some physical overlap between the prison space and the surrounding community. Another student took this same concept even further. Responding to the significant number of people in prison who are survivors of trauma or living with a mental illness as well as the lack of community-based mental health care—which drives many people into prison—she designed a portion of the prison as a clinic serving both incarcerated people and community members.

In each of these designs and others, there was a genuine attempt to respect the inherent restrictions of incarceration without falling into total confinement—environments that deny people their humanity, dignity, and individuality, which is mainly what we have today.

The students' designs and our journey together to Scandinavia left me both elated and daunted. The work of unwinding mass incarceration requires change on so many fronts. We need a revolution in policing and in the use of prosecutorial discretion—and there's some progress in both these areas. We need sentencing laws that reflect the principles of proportionality and restraint rather than excess, and there are efforts underway here too. We need much more restorative justice and other genuine alternatives to punishment. But we can't ignore the prisons and jails we have now and the ones on the drafting table as you read this article.

Radically redesigning prisons in ways that some people say is impossible or impractical is an essential part of confronting the racism and other beliefs that gave rise to mass incarceration in the first place and continue to sustain it. Physical design is just one piece of this disruptive work, but an important one, especially here in America when there's nothing truly different in sight.

Alex Busansky is the President of Impact Justice.