

Do Prisons Work?

by: Rabbi Jeremy Rosen

America and Britain each has a higher prison population, proportionally, than any other country in the "civilized world". If you include non-citizen prisoners in Israel (that means Palestinian and other terrorists convicted, suspected, or otherwise), it too gets bumped up to the higher rankings. Of course, the crucial question is, "Does it work?" Does prison in any measurable way stop or reduce crime or terror or, indeed, does it teach its occupants any lesson other than to get right out and do it again? Once upon a time the great reformers intended prison to be a place of correction. There is little correction that goes on nowadays. Then they thought it should be a penitentiary. But there are very few penitents in prisons.

Statistics, while always suspect, I agree, indicate that prison works. Certainly in America crime rates have declined as the prison population has risen and in Israel terror rates have been drastically reduced. But a recent article in the New York Review of Books ([The American Prison Nightmare](#), by Jason DeParle, April 12th 2007), focused admittedly on the USA alone, suggests that there may not be any correlation.

The US prison population has risen from 380,000 in 1975 to 2.2 million today. At the same time homicide rates have fallen by 43%. It may be however that the decline in crime has other causes, to do with birth rates and increased funding for more professional policing and detection. But there is another issue, the creation of an underclass that is poor, uneducated, and unemployable. In addition they are disenfranchised because in many states in the USA, felons cannot vote. Israel happens to be one of the few democracies where felons can. I hate to think why! In some states the percentage of blacks who are debarred from voting is so high that one can speculate whether it affected the outcome of the past two presidential elections.

Of those imprisoned in the USA, 60% are for drug-related offences and they are overwhelmingly black. By the time they reach their mid-thirties, 60% of black high school dropouts are either prisoners or ex-convicts. A huge number of children are deprived of a father figure, and a high percentage finds it impossible to find work. In other words, there is a significant sector of a civilized society that is consigned to the social scrap heap. To make matters worse, 1.5 million people are released from prison each year who have infectious diseases, over half of which it is estimated, were contracted inside. And 90% of prisoners re-offend. Even if we concede that slavery and discrimination are heavily to blame, even if others argue the problem is at least partially self-inflicted, this is a ticking time bomb. And, with variations of course, a similar bomb is ticking away in the UK. A just society is to be judged by how it treats its weakest citizens, not its strongest, and that to my mind is the single biggest critique I know of a capitalist society.

The trouble is that there are two sides to this issue. On the one hand you

have the issue of punishment. What is its function? Is it to penalize, to cure, or to prevent? On the other hand you have the quite different matter of what steps one takes to protect society from antisocial people. Where potential troublemakers are taken off the streets they can do no harm. However, if in taking them off the streets you are, in effect, creating a far larger threat and potentially even more violence, then the cure is worse than the disease.

Yet that is precisely what we are doing. We are, indeed, protecting society by removing drug dealers and violent criminals or suicide bombers. But we may well be creating a spiral of consequences that will make matters far worse in the long run because there is absolutely no evidence whatsoever that incarceration reduces criminality in the punished, if anything the contrary is true.

So what can we do? In Biblical times, prison as an integral part of the penal system was absent. In many societies a quick death for almost any offence was the short and sharp solution. Just think of what happened to cattle thieves in eighteenth century Britain. Life was cheap anyway. In the Torah however, the response for most crimes short of murder and incest was "community service". If you could not pay you were made to work off your debt to people or society. You were attached to a family, usually the wronged one, and forced to work for them until you had met your obligation. Thus your punishment kept you in society, together with your family, and avoided punishing a whole host of ancillary innocents for the crime that only you had committed. Sadly, we have no reliable sociological surveys to compare the effects. Anyway other factors such as war and social upheaval needed to be taken into consideration and our modern societies are simply not designed to adopt such a system. They can't even handle the feeble attempts at community service they already have.

At this time of the year when we recall slavery, that of a whole nation, we might be inclined to think we were better off working than being incarcerated. But how many were killed off by the conditions? From what we know of Egyptian or Aztec slave labor very few survived. It seems we had some sort of special protection at that time!

When Daniel was imprisoned it was with lions that were expected to kill him off almost immediately. No drawn out life sentence. And the same went for the thousands of Jews who perished in the circuses and gladiatorial orgies. Still, that might have been preferable to life as a Roman slave. In a more variegated and, in most respects, humane society, the responses are more complex and resultantly more confused, less just, and ultimately more destructive to the fabric of society. Perhaps it's like industrial waste and pollution. We might not realize its bad effects until it's too late!

As for the situation in Israel, what else is one to do? We know that prisons breed more terrorism, more determination to get one's own back. But the answer cannot be to do nothing. We know occupation of others is intolerable and counterproductive, but what else can one do if no one is willing to negotiate, other than to simply withdraw and then leave the space to be filled with rocket launchers? And I am not saying ill will is one-sided. So

is the answer, like pacifism to do nothing and sit back and hope or rely on basic human goodness of which there is precious little evidence? Shall we just pray for the Messiah? The overwhelming view of our tradition is that one must be proactive.

Sometimes even if a solution is inadequate, it may still be better than the alternative. If prison, awful as it is, does in fact keep violent criminals off our streets then it is doing a valuable job. But if it introduces relatively minor felons to greater danger and corruption then we are exacerbating the problem and we will need to reexamine exactly whom we allow the law to put inside.

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