

BEYOND PENAL POPULISM AND LIBERAL OPTIMISM: A SOCIAL JUSTICE APPROACH



BY LORD FARMER

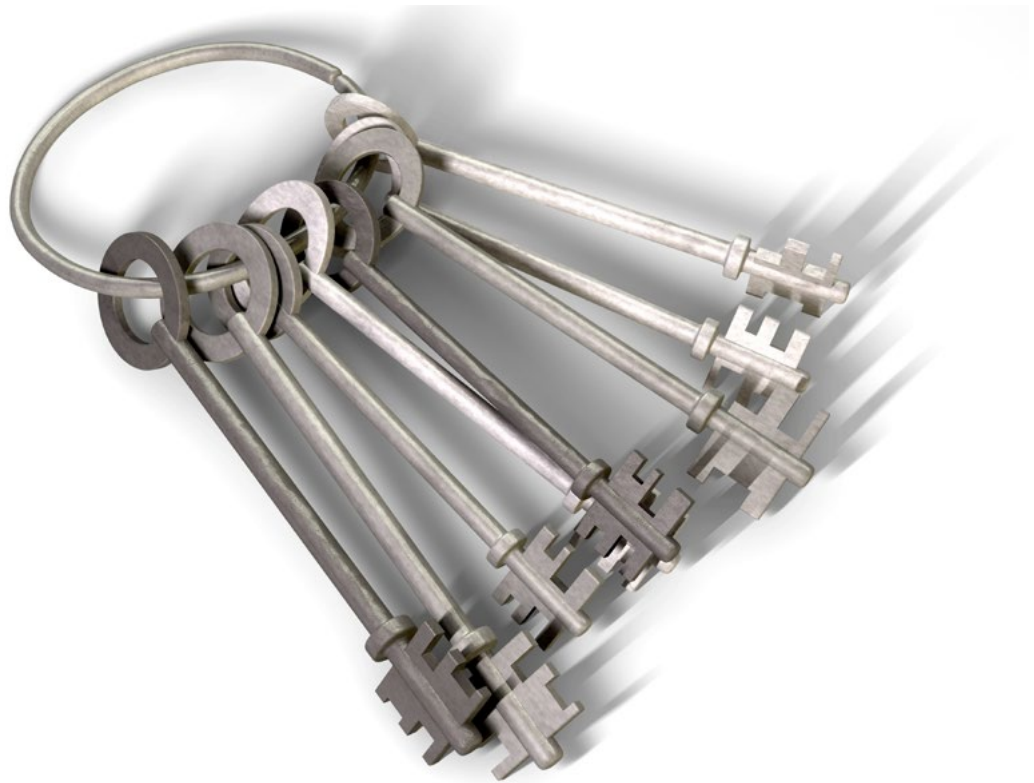


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About the Author

In his maiden speech at the House of Lords in 2014, Lord Michael Farmer of Bishopsgate gave the following three brief facts about his background:

"I started work at 18 as an £8 per week difference account clerk in a London Metal Exchange member firm; I became a Christian when I was 35; and in the last 10 years [now 19 years] I have been an active supporter of the Centre for Social Justice, especially of their policies which support families."

Lord Farmer has spent his career in the City of London. Known as Mr Copper, he was highly influential in the world copper market and the largest merchant trader from the 1970s to the recent past, frequently accounting for between 15 and 20 per cent of Chinese copper imports. In every firm he has established and managed he has tried to instil a culture that values family life, recognising the innate worth of every human being and upholding the importance of integrity and trust. These stem from the second key fact of his background – the Christian faith that came to him literally overnight when he was 35. He is the Christian Deputy Chair of the Council for Christians and Jews.

His values profoundly influence the political battles he fights. Lord Farmer served as Treasurer of the Conservative Party from 2011 to 2015. His financial support for the Conservative Party began when there was an explicit commitment to a social justice agenda in general and a 'strengthening families' agenda in particular. "The first time I met [former Prime Minister] David Cameron,' he recalls, 'he asked me what was my 'thing' in Politics. "Families", I said, "the Government can and must do more to support family life."

Lord Farmer was asked by the Ministry of Justice to write two reports on how to harness the power of family relationships to reduce reoffending and the intergenerational transmission of crime, The Farmer Review (2017) and The Farmer Review for Women (2019). He continues to work closely with the Ministry of Justice to implement the recommendations of these reviews.

Lord Farmer is also the founder sponsor for ARK All Saints Camberwell and is the Chair and Co-founder of The Family Hubs Network.

About the Centre for Social Justice

Established in 2004, the Centre for Social Justice (CSJ) is an independent think-tank that studies the root causes of Britain's social problems and addresses them by recommending practical, workable policy interventions. The CSJ's vision is to give people in the UK who are experiencing the worst multiple disadvantages and injustice every possible opportunity to reach their full potential.

The majority of the CSJ's work is organised around five "pathways to poverty", first identified in our groundbreaking 2007 report *Breakthrough Britain*. These are: educational failure; family breakdown; economic dependency and worklessness; addiction to drugs and alcohol; and severe personal debt.

Since its inception, the CSJ has changed the landscape of our political discourse by putting social justice at the heart of British politics. This has led to a transformation in government thinking and policy. For instance, in March 2013, the CSJ report 'It Happens Here' shone a light on the horrific reality of human trafficking and modern slavery in the UK. As a direct result of this report, the Government passed the Modern Slavery Act 2015, one of the first pieces of legislation in the world to address slavery and trafficking in the 21st century.

The CSJ has long researched family and criminal justice issues, including prisons, sentencing and recidivism, with seminal reports including 'The Golden Thread' and 'Locked Up Potential'. Our research is informed by experts including prominent academics, practitioners and policy-makers. We also draw upon our CSJ Alliance, a unique group of charities, social enterprises and other grass-roots organisations that have a proven track-record of reversing social breakdown across the UK.

Foreword

Prison reform is at the bottom of the pile for public spending. Out of sight is often out of mind, and there is always seemingly a worthier cause to qualify for taxpayers' money or Government's attention.

But the truth is, what happens in prisons affects us all. Reoffending costs the taxpayer £18 billion per year¹, and we spend £47,434 per prisoner, per annum², almost as much as the fees for our top boarding schools, but with very different outcomes.

For many inmates prison is a revolving door. Adults released from custodial sentences of less than 12 months had a proven reoffending rate of 55.3 per cent and almost a third (32.5 per cent) of juvenile offenders reoffend.³ Reoffending means more victims, more lives torn apart by the impacts of crime, and more families with a loved one caught up in the criminal justice system.

Against this backdrop we also have overflowing prisons⁴ and 96 per cent of prisons not meeting their employment targets.⁵ It is clear that change is needed.

The Government is making positive steps, but recent announcements in the King's Speech suggest an agenda being pulled in opposite directions.

On one side, there was a commitment to a rehabilitative approach to criminal justice with a presumption against custody for sentences of less than 12 months and an extension of Home Detention Curfews. These measures acknowledge that the best way to help offenders away from a life of crime – and save the taxpayer the costs of their incarceration - is to keep them close to their loved ones, in the community and with a job.

But on the other hand, the Government has also introduced measures to sever these rehabilitative ties and focus on prison as a punitive measure. These include plans for prisoners to serve their sentences abroad and remove the possibility of parole for those serving sentences for certain types of violent crimes.

Lord Farmer, long-time advisor to Government on penal reform, recently gave a highly personal and thoughtful speech at the Centre for Social Justice to a packed audience which confronted this dichotomy head on. This "In My View" paper contains that speech, in which he argues against both the arms race of ever-severe sentencing and the cosy liberal "it's not your fault, it's your circumstances" mantra.

Rather, for Lord Farmer, our politicians need to focus on how to keep people out of prison, particularly men. Relationships are the golden thread that need to be woven throughout our criminal justice system. It is meaningful, healthy and trusted relationships that give offenders the courage to change, equip them with the tools to know how, and most importantly, give a reason to have hope for the future.

In the often polarised debate about prison reform, where red-blooded rhetoric and liberal condescension collide, Lord Farmer's speech provides a calm and experienced voice of reason.



Sophia Worringer

Deputy Policy Director, The Centre for Social Justice

Beyond Penal Populism and Liberal Optimism: a social justice approach

This was first given as a speech at the Centre for Social Justice offices in Smith Square on Tuesday 14th September 2023.

I will start by defining my terms – what I mean by penal populism and liberal optimism.

Penal populism is the perceived rising punitive tide of mass opinion, and the media and political response to it, an iterative process which tends to ratchet up to a flood tide when general elections approach.

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Media accounts of high levels of crime and low levels of punishment interact with the public’s firsthand experience of prolific and unchallenged offending. If police ignore shoplifting and drug offences this could hollow out our town and city centres as has happened in San Francisco.

The first duty of Government is to keep the nation’s citizens safe, and it’s vital to uphold the rule of law. But there is also public vengefulness which politicians and others who want a following are required to court to achieve popularity, particularly by demanding ever longer custodial sentences.

For these reasons successive governments, of most relevance for today since 1993, have been hung on penal populism. A more nuanced approach has gone unarticulated in mainstream political discussion despite decades-worth of policy material from thinktank and prison reform organisations. Hard-line policies are pursued due to the belief that this is the public wants, rather than evidence-based policies deemed effective at dealing with crime and associated social problems.

Yet Roy King and Lucy Willmott’s recently published book, *The Honest Politician’s Guide to Prisons and Probation*, quotes many former Home or Justice Secretary or Prisons Ministers, since 1990, as saying that far too many people are sent to prison and it should be the last resort. Ken Clarke, Home Secretary following the 1992 General Election described how “his successors played to the gallery as tough law and order figures”.

What triggered the tide of relative illiberalism which many would say is still in flood? Arguably the understandable outcry following the Jamie Bulger killing on 12th February 1993 by two other children. Instead of acknowledging the need to challenge inadequate parenting and manage expectations about what a criminal justice system can do, the next Home Secretary kickstarted the still ongoing competition between the two main parties on who could be toughest on crime.

My response to the arms race which penal populism generates in necessarily vote hungry politicians, is that, like the nuclear arms race, we simply cannot afford the price tag, either in sheer cash terms of £47,000 per prisoner per annum, or the squandering of human potential.

Extending the analogy, another problem with a nuclear arms race is the potential for everything to blow up. Many current prison regimes are being managed as well as conditions allow. But the lack of purposeful activity and other very unsatisfactory conditions that ensue from prisons being chock-full, could turn many into powder kegs unless pressure on numbers is relieved.

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Per their book title, King and Wilmott’s definition of an honest politician is one who admits, typically when they have left office, that sentence inflation is a longstanding and ongoing problem which needs to be addressed, not swerved. In other words, most repent of bowing down to the altar of penal populism when their career no longer depends on it. Indeed, tackling sentence inflation is what many of those formerly responsible for national criminal justice policy considered to be the number one priority for addressing our ballooning prison population.

Ex-Prime Minister Liz Truss is quoted as saying, after she was moved on from her Lord Chancellor role at the Ministry of Justice, that although many politicians are honest enough in private to recognise the need to reduce sentence lengths, “it would take a brave politician to argue for this in public.”

Far more politically acceptable is arguing for the reduction in numbers of prisoners serving short sentences, and the reasons put forward for this are compelling. Short spells in custody disrupt family relationships, jobs, tenancies and otherwise torpedo already fragile lives across the board. I have seen this first hand, particularly in reception prisons serving the courts, such as HMP Durham. However, the numbers serving short sentences are too small to make major inroads into the steeply climbing prison population.

Similarly, whilst it is also politically palatable – and commendable – to do everything possible to keep women and children out of prison, these are already tiny populations in relation to the bulk adult male custodial population. This provides an important clue to an unspoken facilitator of penal populism. No one is making a strong and sustained argument, from a position of public influence, for fewer men to be in prison.

In a whole range of areas, men are often assumed to be perpetrators, abusers and bad parents. At fault by default, although of course they will only actually be convicted and end up in prison if they have been convicted following a fair trial.

Those arguing that we need to give boys a better chance in education and the jobs market by ensuring conditions are less tilted towards the ways girls work, get very short shrift, particularly by many feminists. But the disparities data speaks eloquently, and we should want both men and women to fulfil their potential, it need not be a zero sum game.

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Successful campaigns to reduce the number of women in prison have focused on the victim dimensions of their criminogenic needs or factors. Without in any way absolving men of ultimate personal responsibility for their crimes and victims, why don’t we look at their crimes through the same lens?

Criminogenic factors are characteristics, traits, problems, or issues in an individual’s life that effectively increase their likelihood of re-offending. Lack of healthy relationships is the most frequent factor for women outside prison at 72% and for women in prison at 81%. For women serving sentences of less than a year, the proportion is even higher at 85%. The proportion of men with relationships as a criminogenic factor is around 10% lower in every category but still very high.

However, we must also go further upstream to prevent these factors from being so prevalent in the first place. As a nation we are behind the curve in this area: the fabric of our relational life is becoming increasingly threadbare – almost half of all children do not grow up with both their parents. So, a high percentage grow up with enduring parental conflict and or in stepfamilies which are very hard for all parties to navigate, but particularly children.

In our cultural zeitgeist expressive individualism dominates. The socially validated priority is that the great 'I' must be able to express itself freely without any regard to wider social impact. One form of this which has been given oxygen for half a century is that, even if I have children, when my co-parenting relationship is no longer meeting my personal needs, I owe it myself to move on. My children will just have to cope.

The Government has added fuel to this fire by introducing no-fault divorce. International evidence shows that easier divorce means more divorce and less marriage. What do the promises in the marriage vows mean if one person can simply file online and the other has no legal means of stopping the divorce process?

Qualitative research has shown that children with mental health problems and addictions, who come from broken families, deeply lament the lack of societal recognition of the harms of father absence and parental splits. Quantitative DfE research found that young people in stepfamilies are significantly more likely to show, quote, 'a level of psychological distress that is of potential clinical significance.'

Moreover, children who grow up with non-biological father-substitutes, are eight times more likely to be on the at-risk register and 50 times more likely to die of an inflicted injury than those living with two biological parents. The CSJ found they are also twice as likely to get involved in crime. 75% of young offenders did not grow up with both parents and 40% were on the child protection register or experienced abuse or neglect.

A full quarter of all those in our prisons spent time in local authority care, and, to quote a recent Lord Chancellor, "abuse and violence form the backdrop to the lives of many." Around half of prisoners have no family visits and no reliable love: nobody is there for life in the way a supportive family is and when they leave, many are homeless with nowhere to go – and we are surprised when they are recalled or retried for further crimes. HMPPS are pushing behind quite a dramatic change in culture by requiring those delivering family services in prison to focus also on those who do not have families who visit and show care for them. Prison officers are now trained to form bounded but beneficial relationships with prisoners, and peer support is another growth area.

I recently visited HMP Dartmoor and met a large group of men who had been mentors and recipients of a psychologically informed peer-support programme called Peaceful Solutions. Well-trained lifers mentor other prisoners and help them deal with anger issues, take responsibility for their crimes and handle family relationship problems. The result is a more settled regime as men respond differently to the rigours of prison.

Crucially, this peer mentoring imparts purpose and hope for those offering and receiving it, despite them serving very long sentences. Hope that they can change, hope that healthy and meaningful relationships are within their reach, hope that they can make a positive difference to others despite being in prison for often heinous crimes that warrant the punishment that is extended deprivation of liberty.

If we want to make this country a safer place, let alone our prisons, we as a nation need to understand the value of good human relationships.

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So to sum up, we need to do all that is possible to ensure prisoners have healthy relationships and give them the right conditions and rehabilitative programmes to reverse or at least remedy some of the damage of bad backgrounds, that drove their offending.

That would enable some to be released safely, earlier than otherwise. And crucially we cannot afford to ignore the huge contribution that stable and well-functioning families make to crime prevention. This is where I part company with liberal optimism. Its roots go back way before the swinging 60s when I was a young man, to the 1890s.

This is when, according to sociologist Professor Christie Davies, the thought processes of the educated and prosperous elite shifted from moralism – the sense that there is an objective right and wrong – to ‘causalism’.

They looked down, as he puts it, at ‘a mass of weak people divided into the virtuous and the offending only by chance opportunities and adversities that caused, my emphasis, them to act as they did. They were not truly free agents...’ end quote. This ignored the innate human sense of what is right and wrong that needs to be reinforced.

Today they would be called ‘victims’ in the sense of those who are helpless and passive in the face of misfortune or ill-treatment. Except that we are increasingly seeing victims’ responses morphing into the full spectrum of criminal behaviour: from low-level offending to mass murder. Brendan O’Neill, in the Spectator earlier this month referred to a headline paraphrasing the comments of a senior leader of Hamas as saying, “We are victims – everything we do is justified.” As he said, “If anyone can find a better summary than that of the violent narcissism of our times, I’d be happy to see it.”

At great risk of oversimplifying – even lampooning – liberal optimism, its answer to our high rates of crime is reform of unequal societal structures and the geopolitical world order. Address these and crime will plummet. My own equally simplified response is that this puts enormous faith in human nature, which history does not bear out.

I understand and deeply respect those fighting for better living conditions here and abroad. Growing up in conditions of poverty, neglect, and shame myself, the indifference of others including extended family members, was very hard to bear, whilst selflessness towards others can be transformational. Having visited over 30 prisons I have seen the importance of such selflessness in action, whether from prison officers, employees of the many charities working in prison or even fellow prisoners.

Returning to Professor Christie Davies’ analysis, history does bear out the macro-effects of clarity on the difference between right and wrong. Crime data showed a decline in deviance in the half century up to 1900 when there was a drop in crime and social disorder that he directly linked to the influence on popular morality of religious institutions, notably the Sunday Schools. He observed that these turned out such relatively law-abiding young people that the average age of prisoners rose. The turning point of this decline in crime was the First World War.

It started a flattening out which ended with the late 1950s, when crime began rising steeply again, with the dawn of the sexual and social revolutions of the 1960s. That is when we begin to see Davies’ U-curve of deviance – based on data not theory.

This U-curve reflects a fall and subsequent rise not just in crime, but also in drug and alcohol abuse and, interestingly, births outside of marriage. He associates this rise with the decline in moralism, which started, as I said, with the elite.

Knowing the difference between right and wrong implies that individuals have autonomy to choose whether they behave with, as he put it, “virtuous innocence or deliberate guilt”, whereas causalism gradually eroded the sense of personal responsibility.

As an aside, it is unsurprising that there has been an ever-expanding legal corpus. To give an example, when I started in the City in 1963, its famous motto was still “my word is my bond”. The complete trust in a word and a handshake slowly degenerated to a recognition that one was bound only by what the law allowed or forbade. The result today is that companies and individuals are constantly testing those boundaries.

So, what is my position?

This country needs to find a way though the extremes of causalism also known as liberal optimism or hard-edged moralism in the form of penal populism.

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We need a decent and humane prison system for men and women that is perceived by the public to be effective in both punishing and rehabilitating those willing to be reformed, so there is less crime and fewer victims.

Looking first at punishment: this has to be proportionate to whatever crime has been committed but, as former Home Secretary Jack Straw said, people are deprived of liberty as punishment, not for punishment.

As an aside, in my own two Reviews for the Ministry of Justice on how to strengthen prisoners’ family ties to prevent reoffending and intergenerational transmission of crime, I was standing on the shoulders of the giant who is Lord Woolf. He produced a far-reaching report for the-then Home Secretary, Kenneth Baker, following the Strangeways prison riots. These broke out on 1st April 1990, lasted 25 days and spread to five other prisons.

Lord Woolf travelled to several other countries to see better penal practice and was impressed by the more relaxed environment in Spanish prisons and the extent to which prisoners were able to maintain their family connections. He tells the story of meeting Prime Minister Margaret Thatcher on his return from Spain. When she quizzed him as to why he was so impressed he said it was possibly because most of the members of the Spanish Government had been prisoners themselves under General Franco. They had personal experience on which to rely when deciding upon changes to their prison system. Allegedly Mrs T was not herself very impressed when Woolf suggested that improving prisons in this country might require the Government’s ministers also to experience being locked up!

I tell this story not just as an amusing anecdote, but because it’s a lot easier to veer towards the punitive when prisoners are always those other people who are not like me.

But what if they do end up in prison – what should rehabilitation look like?

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As I have indicated, people need hope and purpose. Hence, I agree with the current Lord Chancellor that Imprisonment for Public Protection or IPPs are a terrible stain on our justice system. One former prison governor told me that IPPs took away the ability of his officers to give hope to those on them.

As I have already said, good, healthy relationships are indispensable for giving purpose, alongside the many other rehabilitation pathways such as education, employment and help to come off drugs. I major on relationships because serving politicians seem unwilling to talk about them.

Yet look at the data: access to education and employment cut the likelihood of reoffending by around 9% and addressing addictions reoffending by 19%. Prisoners who receive family visits are 39% less likely to reoffend than those who do not.

I point to five important types of relationships. First, good friends and family who are willing to keep in touch are a formidable stabilising force – fathers at HMP Winchester told me their daily conversations with their children keep them drug-free and away from violence.

Corin Morgan-Armstrong has been a serving prison officer for two decades. His ground-breaking family work at HMP and YOI Parc is showcased across the world, including by the Centre for Social Justice. He says:

“Even if they have destroyed their family relationships through their criminal choices, there remains something raw, intrinsic and indefatigable, a hope or desire to repair damage, to try and somehow make things better. For me, this motivation for change above all other practical motivations (accommodation, employment, education etc) is the most powerful, and critically the most sustainable.”

Second, returning briefly to good officer-to-prisoner relationships. Many prison officers enter the service because they want to do good and they need time for the light-touch, quasi-therapeutic conversations which enable them to spot the men who are sinking in despair or simmering with anger.

And third, again, peer-to-peer: meeting Bugsy, a tough-looking, tattoo-ed Peaceful Solutions peer mentor in Dartmoor, what struck me most was he was now getting out of bed with purpose despite still facing most of a three decades' long sentence. He knew his work was producing good because those around him were changing their outlook and finding hope.

Fourth, the prison service simply could not run without their incredibly valued partnerships with the voluntary sector. Throughout my two Reviews I worked closely with Clinks, the infrastructure organisation for the criminal justice voluntary sector, and I know the Centre for Social Justice also does a huge amount to make sure these organisations' voices are heard by those making criminal justice policy.

Fifth and finally, a theme I keep pushing from my first review is the need for prisons to be extrovert rather than introvert. HMP Parc mentioned earlier has terrific relationships with the local community which give a lot to the prison. Teachers come in for parents' evenings and the local Fire Brigade shows inmates and their children how to be firefighters for the day. As well as bringing in an enormous amount of resource, it reduces the sense that prisoners are completely 'other', 'alien' and undeserving of any empathy or compassion.

Let's face it, we could all end up in prison if we drive recklessly, behave badly whilst drunk, or perhaps in a dystopian future, for our beliefs and convictions as happened in Franco's Spain – we cannot assume it will never happen here. Whatever they have done, prisoners are still part of the community.

Another ex-Home Secretary, Charles Clarke, said that the public's third priority after security and justice was that ex-offenders would become positive and constructive members of their community – but that this would take all of society working together. He unashamedly cited New Labour's Sure Start programme as part of their early crime prevention strategy, to help families get it right for their children way before anyone came near a custodial sentence.

Family Hubs, a policy birthed here at the CSJ, must be explicitly part of this Government's narrative for building a better society and ultimately reducing the prison population. I have already referred to the neglected but indispensable role that stable parenting and family relationships play in keeping children safe and helping them to build a secure identity. To this I would add enabling parents to reinforce the difference between right and wrong in their children's lives.

Parents and not teachers are responsible for ensuring their children can self-regulate and be others-oriented instead of adopting the selfish and narcissistic approach to life of many popular role models.

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The home is the nursery where people learn firsthand the difference between what is good and what is bad – and they need that ongoing input from the earliest point in life, until their brains are more or less fully formed at age 25.

Hence, also, universal, end-to-end childcare should not be the solution political parties reach for at election time – therein lies another arms race. Who can offer the most hours, from the earliest point in childhood. I am not a purist, many parents need to use childcare, but the implicit narrative of the state is that everyone should be in full-time work, regardless of their parental responsibilities.

Parenting is valued at zero, anyone who wants to stay home, do their own childcare and take the massive salary hit, is treated like a slacker. Yet it's one of the hardest ways to spend one's days: children's needs are unremitting, and they rarely thank adults for meeting them.

Does even the most conscientious nursery worker, looking after several small people, impart the subtle life lessons essential for their development – particularly the need to take responsibility for their own actions which is vital for resilience?

In conclusion, we need a good prison system for both men and women – that is effective for rehabilitation which, indispensably, enables good healthy relationships to flourish.

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Instead of focusing on high sentences, incumbent politicians should lead a constructive debate about why we have so many men in prison and how to reduce the number safely, including through changes to sentencing policy, not least because resources are so limited.

We need an equivalent response for men who have suffered abuse and disadvantage as pertains to women in the criminal justice system. No one is arguing they should just be let off because of these factors. The difference between right and wrong needs to be reinforced, whatever adversity people have encountered, and however undeserved that adversity might have been.

Those who have done wrong need to be punished but deprivation of liberty is the punishment, prison is not where they go to be punished.

Politicians need to argue more strenuously that there are rewards for rebuilding men’s lives, for recognising when prisoners have had very difficult childhood experiences or have made deeply regretted mistakes. They can and should be able to talk about our shared humanity – and make the case that effective rehabilitation is hard, not soft, on crime.

Less reoffending means fewer victims, fewer court cases and a lower prison population. More fathers at home, working, paying taxes and keeping their children on the straight and narrow – taking the strain off mothers who would otherwise be coping alone and often dependent on the state.

We need to halt the ratcheting effect of penal populism, including by deploying economic arguments about the unsustainable costs of ever-increasing levels of incarceration. This would encourage employers to follow Sir John Timpson’s example by training men inside and then putting them on payroll in their firms when they leave prison.

But we also need to expose the fallacies of liberal optimism, particularly that family breakdown has a neutral effect. It’s time to start being respectfully honest but unapologetic about the benefits to children and wider society of being raised in a low-conflict, caring home with both biological parents.

We need to do far more to prevent families from fracturing and becoming completely dysfunctional. Strengthening families when they are struggling must be at the heart of a crime prevention response.

It starts in the early years – Scotland’s Detective Chief Superintendent John Carnochan said he would rather have a hundred extra health visitors than a hundred extra police officers – but it cannot end there. We cannot swerve the differences between right and wrong which are the responsibility of parents – fathers as well as mothers – to reinforce throughout childhood. We need to help them skill up to do this where necessary, particularly through family hubs.

Family hubs can also release the huge pressure on family courts. Courts would be free to process the genuinely complex cases far more quickly if mediation and help for parents to understand the harms of post-separation conflict were delivered in these community settings.

We also need to push back when efforts to improve circumstances for boys and young men, such as finding creative ways to raise their educational attainment, and make them more employable, are treated with suspicion.

Tackling the roots of crime requires far more than reforms to criminal justice alone. What is required in society and government is a recognition that relationships, not money, make life worthwhile and are worth fighting for, especially where children are concerned.

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