

'Honesty' in Sentencing?

Top point:

If, starting from January 2018, those sent to prison served the full term of the sentence in custody the prison population would grow to 100,000 by 2020 and to 130,000 by 2040.

How much of a prison sentence given by the court should be served in custody? Most jurisdictions reduce the time spent in custody to encourage the offender to behave and to rehabilitate while in prison, and to enable support for, and risk management of, the individual in a post-custody transition, working towards a law abiding life. In England and Wales the custody period for fixed length determinate sentences (the majority) is set to half, but it has been higher in the recent past, at two thirds.

The occasional challenge, however, does still come, arguing that this situation is not in accord with the community's expectation or belief that the sentence given should actually be served in custody. It is by no means clear that the community is in such a state of mind, but the argument is sometimes put forward by advocates of tougher sentencing. While we should of course expect such a change to increase the prison population, it would nonetheless be instructive to quantify the impact of increasing the proportion of sentences served in prison.

The Scenario

This scenario examines the consequences of such a change at two levels: 100% of each sentence is served in custody; and 75% of each sentence served in custody. The reference scenario, no change, is 50%. The change is introduced from January 2018.

The projections show the future case loads for prison and community supervision on post release licence. The case for 100% custody completion generates a rapid rise in prison numbers to 100,000 by 2020 and then more gradually to over 130,000 by 2040. In this case there is no post-custody supervision and there is a consequent decline of the numbers on community supervision. The case of 75% completion of sentence is intermediate between the reference, no change case at 50%, and the case of 100%. NB: the rapid rise in number of those supervised on licence is a consequence of the "Through the Gate" Policy introduced by the MoJ in 2015.

Conclusion

Is this something that should be seriously considered? Plainly, if you believe that "prison works for rehabilitation" this would be a possibility. However the evidence for such role for prisons - as currently configured - is at best very thin, and implementation would be very costly. However, this is not completely the end of the story as there are two further aspects to consider more closely: what would the incapacitative effect of the extra time in prison (time that would not be available for re-offenders to commit further crimes in the community); and the impact of aging, in and of itself in reducing the risk of reoffending for some types of offences. More about this in due course.

