

BOOK REVIEWS

The Social Order of the Underworld: How Prison Gangs Govern the American Penal System

David Skarbek

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“In short, in California, the question of how to manage prisons has resolved itself into the question of how to manage prison gangs.” With these introductory words from researcher John J. DiIulio Jr., David Skarbek’s *The Social Order of the Underworld* establishes its premise: the inmates run the asylum, and America’s criminal justice and prison policies are largely responsible.

Skarbek, currently a lecturer in Political Economy at King’s College London, goes where few economists have gone: into American prisons to learn how they are governed. Due to the limited availability of data about the inner workings of prison populations, as well as the illicit nature of much of what his study describes, Skarbek primarily relies on court records, firsthand accounts, and documentaries, along with whatever data he was able to glean from state governments and extant sociological research. The end result is a meticulously researched and persuasive argument for rejecting previous explanations for the rise of prison gangs in favor of a rational choice conception of prison governance.

Rational choice theory consists of two main ideas: people are subjectively self-interested and people adjust their behavior according to

a rational cost-benefit analysis. Indeed, Skarbek notes, the incentives for prisoners to behave rationally in response to institutional changes are even greater than for free men, as the cost of deviation for a prisoner is often swiftly imposed and brutal.

The American prison system denies many high-demand goods and services to prisoners. In turn, the provision of those goods and services is inevitably a profitable endeavor in a system that lacks the legal authority to employ particularly brutal means of suppressing it (Skarbek rather blithely makes the point that prison gangs do not appear to be a problem in countries where the punishment for inmate gang affiliation is death). The result is a massive black market for drugs and amenities like cell phones. In addition, and perhaps more interesting, are the governance institutions that emerge to resolve disputes, establish order, and facilitate commerce. Gangs have proven to be an effective means of meeting these demands.

It wasn't always so. Skarbek walks us through the 20th century of California prisons, beginning in the 1940s and '50s when prison gangs did not exist. With such relatively small, homogeneous prisoner populations, a norm-based approach—the “Convict Code”—was sufficient to bind the inmates to a central governance philosophy. Inmates knew each other, spoke the same language, often grew up in the same towns, and could adjudicate disputes and mete out discipline among the population as a whole.

But when the prison population exploded over the next generation, the norm-based system broke down. The prison population grew more diverse ethnically and linguistically, it grew younger, but most of all it grew fast. It became impossible for inmates to know everyone else on the yard. The younger inmates bucked the system. Language and cultural barriers raised the cost of information transmission, and the drug war filled the prisons with drug addicts demanding a fix and having the connections to get it.

Into this chaos stepped the prison gangs. Race became the lowest cost means of identifying and categorizing people. The Mexican Mafia formed to protect Mexican inmates from the predations of white and black inmates, and other race-centric gangs quickly formed in response to stanch the violence and chaos.

By applying his rational choice theory of governance, Skarbek's conclusion is that we'd be foolish to expect otherwise. With the

largest prison population in the world, overstuffed prisons, and prison guards who are incapable of stemming the tide of market forces within the population, what enforced order could we reasonably expect to find? But it is still a type of order. Prison gangs employ written constitutions, political structures that can be reorganized after institutional breakdowns, personnel departments capable of running intrusive background checks through contraband cell-phones, and complex systems of dispute resolution.

Prison violence has dropped over the past two decades as gang influence has spread. While some of that can be attributed to better penological practices, the gangs clearly deserve some credit. The species of order that the gangs have wrought might be distasteful or downright horrifying—which Skarbek emphasizes through a series of anecdotal vignettes about various aspects of prisoner justice—but it is undeniably effective relative to the chaos it replaced.

Importantly, the impact of these developments is not limited to life within the prison walls. Prison gangs now control large swaths of the street-level drug market. It may seem counterintuitive that men behind bars should be governing large organizations on the outside, but Skarbek has an answer.

A man who spends his life dealing drugs or enforcing gang edicts can reasonably expect to spend time in prison. And once a person enters the prison system, the typical methods of street protection are no longer available. A new prisoner is alone, without confidantes, without weapons, without credibility in the eyes of the powers that be inside the prison walls. Such inmates are vulnerable, and outstanding debts or feuds with gang leadership can be fatal. In other words, you've got to make good with the gang on the outside if you want the gang to help you on the inside. Thus prison gangs wield considerable influence over street gangs and leverage that influence into untold millions of dollars in "taxes." In a witty reference to Mancur Olson's "stationary bandits" theory of the origins of government, Skarbek has called these gangs "incarcerated bandits."

So, accepting Skarbek's well-made explanatory argument, what can be done to counter the influence of prison gangs?

To that end, Skarbek rejects traditional "supply-side" arguments for breaking the influence of gangs. Contraband interdiction operations, attempts to segregate high-ranking gang members from the

rank and file, and even transferring gang members to different states have all failed. There are nearly as many contraband cell phones in California prisons as there are inmates. Drug smuggling is rampant. When gang leaders are segregated or shipped out, the gang ideology simply metastasizes wherever they land.

It is the demand, Skarbek argues, that must be addressed. He offers several solutions, some much more feasible than others.

While Skarbek is careful to argue that the incarceration boom generated by the drug war can't entirely be blamed for the rise of prison gangs, the implications compelled by his argument are plain. Drastically increasing the number of prisons in order to achieve pre-gang prison populations would, on Skarbek's reasoning, negate gang influence. So, too, would allowing inmates more licit access to the high-demand contraband for which they rely on gangs. Skarbek even floats the idea of prison voucher systems to allow convicts some say in where they do their time (which would in turn spur competition between prisons). But when confronted with the political reality of the American criminal justice system, the path to neutering gang influence, both in prisons and on the street, seems clear.

There are roughly 15 times as many prisoners in California today as there were in 1950. Even a state with as much love for public spending as California isn't going to go the route of prison vouchers. Similarly, "more amenities and more choice for convicted murderers and rapists" is unlikely to appear on campaign buttons any time soon.

The simple fact is that, in order to counter the influence of prison gangs, prison populations have to shrink. America's fetish for the incarceration of nonviolent offenders and mandatory minimum sentences are obvious places to start cutting, and it seems the American political establishment may finally be waking up to that fact. If gangs of murderers and thieves can respond rationally to institutional realities, so can policymakers.

Policy prescriptions aside, David Skarbek has produced a must-read piece of research for anyone remotely interested in the American criminal justice system. His well-argued economic analysis makes it difficult to subscribe to any other theory of what we're seeing in the prison system and why.

Adam Bates
Cato Institute