



Research Article

Hätä Keinon Keksii: Consulting the Nordic Model of “Penal Exceptionalism” for a Praxis-Oriented Approach to Higher Education in Prison

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Abstract

Denmark, Sweden, and Norway hold among the world’s lowest rates of incarceration and recidivism. This phenomenon, referred to as the Nordic model of “Penal Exceptionalism” (Pratt, 2008), has proven replicable as Finland – whose prison population once soared – reduced its rates of incarceration after adopting many of the policies and initiatives pioneered by its neighbors (Lappi-Seppälä, 2000). As the United States reinstates Pell Grants for incarcerated learners and New York State passes its own set of progressive reform laws (the Less is More Act of 2021 and revisions to state discovery laws and bail reform), scholars, activists, and educators might look toward the Nordic countries for guidance on how to serve this evolving student demographic. The Finnish expression, “Hätä keinon keksii” translates loosely into English as “Emergency finds the way” or “Necessity is the mother of invention.” This is true for Finland’s rapid development as a global leader in progressive approaches to higher education in prison (HEP) and may speak to the current situation in the U.S. This article examines both 1) the nature and logistics of brokering relationships between prison administration, law-enforcement, and college administrators and 2) the nuance and specificity of developing a curriculum and pedagogy for justice-involved students. This paper adopts a framework of praxis-oriented policy analysis and reads the Nordic initiatives and relevant policy moments that incited Finland’s changes as a guide to develop a more progressive HEP, one in service of scaffolding pathways to reentry, reducing recidivism, and lowering the population of incarcerated Americans.

Keywords: higher education in prison, Pell Grants, Finland, Nordic model

Introduction

In 2023, the United States--and specifically New York State--is set to enter a period of greater liberalization and progressive reform, one that sees the restoration of Pell Grant funding for currently incarcerated students seeking to access and attain higher education credentials while in jail or prison. At this juncture, both the United States and individual colleges and universities will need to reassess the policy design and framework for best providing educational opportunities to incarcerated and justice-involved students. This means exploring ethical and socially just administrative policies as well as instructor training and classroom pedagogies. Historically, this responsibility has fallen on small non-profit organizations such as the Thrive Technical Assistance Program (College & Community Fellowship), the Inside-Out Prison Exchange Program (Inside Out Center) or the Bard Prison Initiative (Bard Prison Initiative), among others. With the restoration of both state and federal monies for incarcerated and justice-involved students to attend higher education, the scale of this field is set to multiply exponentially. This issue will soon outgrow the scope of such small non-profits and fall into the hands of state and federal lawmakers rife with political, ideological, and economic motivations.

Inquiry Statement

Educators, activists, and policymakers are then left with a series of critical questions: How do we meet the needs of a student demographic set to explode in growth? How do we avoid the neoliberal impulse to capitalize on this new student demographic without providing them adequate and meaningful support? What does adequate and meaningful support look like?

As a member in the International Society of Dialogical Science (ISDS) since 2019, I have been lucky to cultivate meaningful academic and professional relationships with colleagues around the world, even amidst a global pandemic. After attending the ISDS conference in 2021, hosted remotely from

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Barcelona, I was exposed to the research, practice, and pedagogy of colleagues at the University of Helsinki. I understood that some of the University of Helsinki's "Helsinki Inequality Initiative" work was centered on mitigating the effects of radical White nationalism in the Nordic countries -- a problem pervasive here in the United States as well (University of Helsinki). Upon recognizing this, I understood that there were meaningful connections to be discerned between the United States and Finland relative to these important issues in social justice.

One such connection is this: In Finland, many of the progressive reforms were actualized because of a general political trend in accepting the advice and guidance of experts and scholars.

In this article, I explore the relationship between relevant and related policy opportunities and argue ultimately that the U.S. is in a current position to mirror some of the progressive reforms that allowed for Finland to meet its more progressive neighbors on issues of social justice for its incarcerated citizens. By comparing both the criminal justice policies as well as the education policies between the U.S. and Finland, I argue for a prime policy moment where the U.S. can take lessons from Finland and enter an era of reform, progress, and decarceration.

I've chosen to review only a few of the relevant and inciting policy opportunities that allowed for greater reform in Helsinki. In doing so, my intention is to highlight how these changes are replicable here in the U.S. and under the current policy contexts. Relatedly, I think it is important to recognize the pervasive biases toward Nordic and Scandinavian "exceptionalism." Moreover, it is worth considering how ameliorating the prison-education system in the U.S. (without reforming the larger social structures outside of jails and prisons) may in fact be antithetical to larger goals of prison abolition and social justice. Thus, it is worth considering some basic facts for comparison and context.

Theoretical Framework & Methodology

The Finnish expression, “Hätä keinon keksii” translates loosely into English as “Emergency finds the way” or “Necessity is the mother of invention.” This is true for Finland’s rapid development as a global leader in progressive approaches to higher education in prison (HEP) and may speak to the current situation in the U.S. as a means to conceptualize both 1) the nature and logistics of brokering relationships between prison administration, law-enforcement, and college administrators and 2) the nuance and specificity of developing a curriculum and pedagogy for justice-involved students. Here, I adopt a framework of praxis-oriented policy analysis. On the point of a praxis-oriented critical education, Ernest Morrell describes:

It remains important for... educators to help facilitate access to academic literacies for populations that have not traditionally been granted this entrée, but it is also important to help members of these populations learn to analyze and deconstruct the dominant institutions (such as schools and the media) that they are forced to confront on a daily basis. Thus, it is not contradictory to imagine a pedagogy that seeks to increase access to the very sites of oppression and potential contestation; to imagine literacy education as not only a pathway for professional membership, but one of development for engaged citizenship, positioning adolescents as learners of literacies of power and participants as agents (Morrell, 2005).

In adopting such a framework and methodology, I reflect on the initiatives and relevant policy moments that incited Finland’s changes as a guide to develop a more progressive HEP, one in service of scaffolding pathways to reentry, reducing recidivism, and lowering the population of incarcerated Americans. Likewise, I recognize that a praxis-oriented policy process means that those closest to our incarcerated students, and even those students themselves, should be actively engaged in the evolving policy process.

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The vehicle for operationalizing this critical praxis comes from the field of policy analysis. As I have written before, it is crucial that educators teaching within complex social and political contexts remain cognizant of the changes ahead of, and surrounding, their field (Bruno, 2020). As an educator working and researching in college in prison programs for almost a decade, I understand that the current moment can represent an important shift in the way we think about prison education programs and an even more important opportunity to get those programs right. According to Kingdon (1995), referenced in Smith & Larimer (2017), “policy windows” are defined as “opportunit[ies] for rapid policy change” (p. 111). These windows, composed of “multiple streams,” include a “focusing event,” in which a clearly defined cultural, political, or social “shock” allows for greater social, legislative, and political change.

As the crisis in mass incarceration reaches a fever pitch and the on-going COVID-19 global pandemic has had a chilling effect on enrollment and participation in higher education, we are witnessing the opening of one such policy window. Administrators watching their enrollment drop will undoubtedly recognize these incarcerated students as an untapped reservoir of vessels siphoning federal aid awards into colleges and universities. Thus, it is critical that advocates, experts, and educators are prepared to provide meaningful, productive, and culturally responsive educational opportunities for this student body (Bruno, 2022).

The U.S. Situation

Unfortunately, the United States' massive prison population needs no real introduction. Simply put, behind only El Salvador, Rwanda, Turkmenistan, American Samoa, and Cuba, the United States has a higher rate of incarceration of its citizens than any other country in the world. And, with over 2 million people in jail or prison, the United States houses, in raw numbers, the most incarcerated citizens by a wide margin – the next largest prison population is that of China, with nearly 1.7 million people in jail or prison, but China's population is over 1.4 billion, while the United States' is only 339.1 million (“World Prison Brief”).

The causes of American mass incarceration are many but it is largely the result of draconian criminal justice policies, the War on Drugs, and a socio-political celebration of being “tough on crime.” While this incarcerated population ballooned, the people housed within these institutions were systematically stripped of rights, privileges, and opportunities. Among these was access to Federal Pell Grants to attend colleges and universities via HEPs (Alexander, 2012). The 1994 Violent Crime Control and Law Enforcement Act banned “everyone incarcerated in prisons from receiving Pell aid, even though these grants made up less than 1 percent of total Pell spending” (Wagner, 2019).

Inevitably, slashing the funding for these programs resulted in their near extinction. In 2023, however, the U.S. is set to reintroduce universal Pell Grant funding for incarcerated students. The recent reintroduction of Pell Grant Funding for incarcerated students began in 2016 with the Second Chance Pell Program, which included 69 American colleges and universities. This program was expanded to 130 colleges and universities four years later (CUNY Justice Learning Collaborative, 2023). At the same time, the Consolidated Appropriations Act of 2021 allowed for the reintroduction of Pell Grant funding for incarcerated students, and the FAFSA Simplification Act promised “Incarcerated students in federal and state penal facilities will regain the ability to receive a Federal Pell Grant (starting with the 2023–24 award year)” (FAFSA Simplification Act).

At present, the U.S. Department of Education is certifying a model of Prison Education Programs (PEPs) that would allow for access to the incoming Pell Grant monies, as of July 1st, 2023, to individual colleges and universities on a case-by-case basis. As this shift begins to take shape, we should look towards one of the key factors in what made the transition to more progressive policy reform for Finland so successful -- the respect and guidance of experts in the field. In this case, those experts might be the educators familiar with the localized experiences of their incarcerated students.

A Nordic Approach

Looking toward the Nordic countries for guidance on progressive policy reform is far from a new idea. Denmark, Finland, Iceland, Norway, and Sweden have all been cited and celebrated for their adherence to the “Nordic Model,” a loosely defined set of cultural, social, political, and ideological practices including collective bargaining, a strong social safety net, and a comprehensive welfare state (Hilson, 2008). In this model, the penal system is recognized as particularly progressive and has recently been referred to, somewhat controversially, as a model of “penal exceptionalism,” which boasts “low rates of imprisonment and humane prison conditions” (Pratt, 2008). Similarly, Finland’s educational system is particularly celebrated for its “9-year comprehensive school (*peruskoulu*) for all children, whole-child focused curriculum and pedagogy, systemic care for students with diverse special needs, and trust in schools to find the best ways how to teach all children well... However... One factor is a necessary condition for all these mentioned success factors: the daily contributions of excellent teachers,” (Sahlberg, 2021, p. 129). Taken together, we might recognize Finland’s unique place a global leader in *both* education and prison policy.

Compared to its neighbors of Denmark, Norway, and Sweden, Finland has enjoyed a relatively brief tenure with the reputation of a utopia of socially just policies, progressive education systems, and humane jails and prisons. Despite boasting its superlative as the "happiest" country in the world -- a metric defined more by a nation's social support structures and government assistance programs than its individuals' wellness, joy, or satisfaction (Helliwell, et al., 2023) -- Finland's record in social justice and human services has been troubling until relatively recently. In fact, many Finnish progressive policies date back only to the 1970s, after Finland adopted a slew of measures aimed at matching or competing with the more progressive countries of the Scandinavian peninsula. Prior to these reforms, the Finnish prison population soared to 400% greater than that of its neighboring countries (Lappi-Seppälä, 2000).

Before its era of progressive reform, and in the wake and economic fall-out from the Second World War, many Finnish policymakers were skeptical of, and resistant to, implement changes that would ameliorate the condition of prisons. However, instead of disinvesting in the initiative, Finnish policymakers saw the condition of prisons as related to the overarching social and economic structures governing life outside of prison walls. This, it is argued, is the result of the intellectual attitude of the

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Finns, resulting in a willingness to consult academics and experts on this matter. In

fact, Finland's approach to policy reform has been "described as exceptionally expert oriented: reforms have been prepared and conducted by a relatively small group of experts whose thinking on penal policy has followed similar lines. The impact of these

professionals was reinforced by close personal and professional contacts with senior politicians and with academic research" (Ekunwe & Jones, 2012, p. 146).

This willingness to receive the consult and advice of scholars and experts was evidenced in near immediate reforms. One such "...sign of changing thinking taking practical shape was to be found in the appointment of permanent prison psychologists, the first of which began working in Turku and Helsinki in 1968" (Anttilla, 1981, as quoted in Ekunwe & Jones, 2012). In line with this new thinking was a shift away from "moral and ethical teaching" in jails and prisons and an adoption of vocational training (Anttilla, 1981, as quoted in Ekunwe & Jones, 2012).

Today, the United States might take note of this Finnish proclivity. Helsinki's willingness, and ultimate decision, to trust experts and broker relationships with scholars to implement progressive reforms in Finland represents a practical (rather than exceptional) decision to produce a more socially just society for its citizens, incarcerated or otherwise. Among these important changes is the role, perception, and accessibility of HEP programs for incarcerated Finns.

Consulting the Finnish Model in the U.S.

Finland's trajectory toward a greater sense of social, economic, and political justice for its incarcerated citizens represents a useful analog for the current circumstances in the United States, whose own checkered past relating to questions of social justice for incarcerated citizens has been the subject of countless research studies, advocacy coalitions, and calls for reform and abolition. While overall rates of incarceration have decreased over the past half-decade, populations remain horrifically high, while support programs -- especially HEP programs had been notoriously difficult to access, fund, and complete. As Pell Grant funding returns to these programs, we might seize the opportunity to reform policies and pedagogies in more progressive ways.

Today, Finland celebrates an inclusive model of education which ranks among the best public education systems on the globe while maintaining a low national rate of incarceration (about 10 times lower than that of the United States or Russia) (Rikosseuraamus, 2019). Teacher training and

preparation represents an important aspect of this global ranking, with Finnish teachers receiving some of the best pre-service preparation available (Sahlberg, 2021). In addition to this, Finnish teachers are habitually encouraged to maintain a reflective practice, one that puts them in the role of “teacher-researcher.” Thus, Finnish educators are more likely to have the time, support, and encouragement to maintain a reflective and reflexive pedagogical practice (Niemi, 2008, as cited in Sahlberg, 2021). At the micro-level, it is clear that Finnish educators are provided with quality pre-service training, and once they are in the practice of teaching, they are granted time to reflect, plan, and think critically about their work. Perhaps some of these opportunities might be afforded to educators in the U.S., so that they, too, might be in a position to engage more critically with the discourse surrounding HEPs.

Some of these opportunities are afforded to Finns via the Finnish Social Insurance Institution, Kansaneläkelaitos, (abbr. Kela). Through a combination of public services and support programs housed under Kela, Finland provides tuition-free higher-education for all of its citizens. This includes both the multidisciplinary and specialized universities. These schools find the majority of their funding (64 percent) from government subsidy (Finnish Ministry of Education, p. 38).

The wide social safety net provided to Finns via Kela, as it relates to higher education, is described here. Under the Universities Act,

The mission of the university shall be to promote free research and scientific and artistic education, to provide higher education based on research, and to educate students to serve their country and humanity. In carrying out their mission, the universities shall interact with the surrounding society and promote the societal impact of research findings and artistic activities. (Universities Act. 645/1997.)

Compared to the U.S., where state budgets habitually cut funding to their public universities (Flannery, 2022), offloading the cost of college onto students and ballooning the student-debt crisis, Finland's model represents a solution to both subsidizing colleges and universities and protecting its students from the burden of student debt as well as cultivating meaningful opportunities for dialogue and progress

What we can learn from this is that there is infrastructure to support initiatives in higher education in prison at both the highest political levels--wherein politicians respect and review the opinions of experts and researchers, as well as in the relationships between jails and prisons and the host colleges and universities.

Implications and Recommendations

So, what should we do about this? At the time of this writing, the U.S. Department of Education has released its guidance for securing funding in a letter titled, "Eligibility of Confined or Incarcerated Individuals to Receive Pell Grants" (Weisman, Mar. 29, 2023). With funding made available on July 1st, 2023, institutions seeking to provide access and opportunity to these students will need to adhere to the guidelines outlined by the Department of Education, proving that they will provide educational opportunities on par with those housed on the main campuses. These basic criteria include that the college or university applying for PEP designation:

Be a public or private nonprofit institution; Offers credits transferrable to at least one institution in the state for those working in state prisons or to an institution in the state to which most students will return for Federal prisons; Has not been subject to an adverse accreditation, state, or US ED action in the previous 5 years; Satisfies requirements for licensure or certification if such a credential is a requirement for entry into the profession for which the program is designed; Does not offer a program designed to lead to a license or professional

certification from which people with criminal convictions are barred (with detail about how this applies) (Vera Institute for Justice, 2023)

While such regulatory oversight is encouraging, it is worth remembering that these policies and regulations are often designed in faraway places, distant from the nuance and particularity of our classrooms, and in response to a wide range of political and economic contexts. At the same time, it is naive to imagine scaling the humanistic approach found in those individual classrooms and relationships up to meet the needs of a blanket repeal of the withholding of Pell Grant funding for incarcerated students.

So, we are left at something of an impasse. As we wait to see how these programs and our incoming students fare, we--as educators--might do best to become literate and active participants in the discourse of prison education programs. And while the analog of Finland's progressive shift in social

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support might be a useful one, we should think about how best to take some of those lessons and replicate them in our own immediate context, one rife with our own complex and nuanced issues. If the success of Finland's reform is informed by a willingness to trust experts and academics, academics need to be willing and able to enter into these conversations.

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To cite this article:

Bruno, G. (2023). Häätä Keinon Keksii: Consulting the Nordic Model of “Penal Exceptionalism” for a Praxis-Oriented Approach to Higher Education in Prison. *Dialogues in Social Justice*, 8 (2), Article 1576.