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Implementing alternatives to incarceration



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Introduction

Incarceration is when an individual is placed in an enclosed space for a specific amount of time by their government or state as a result of being prosecuted due to having endured a trial for their committed crime. As the number of imprisoned individuals rises at an extremely rapid rate, with nearly 11 million incarcerated or enduring trial, overcrowding in these confinement spaces and the maintenance of prisoners' basic human rights is becoming an extremely prevalent problem throughout the globe and a solution is to be made promptly to avoid potentially fatal consequences.

Although methods of punishment have changed through the last generations, ranging from capital punishment to corporal punishment, imprisonment has continually prevailed, and countries, governments, or other groups of high authority have consistently opted for this technique. Whether this was to instil fear within citizens, reduce recidivism rates, educate, or discipline delinquents, it is the way nearly every country in our world 'rehabilitates' its subjects and attempts to remove dangerous particulars and activities from their cities.

Despite the fact that the foundation of the idea is congruous within all countries, methods of incarceration vary. Namely, certain countries focus on one of the five types of punishment, which include retribution, deterrence, incapacitation, rehabilitation, and lastly, restoration. As can be understood from their names, said methods prioritize specific aspects of incarceration, which poses a significant problem as incarcerated individuals in one state may endure harsher or more lenient punishment than another individual in a different state, tried and charged with the same offense, creating global



unrest and concern due to these inequities.

Definition of Key Terms

Incarceration

When an individual is placed in an enclosed space for a specific amount of time by their government or state as a result of being prosecuted due to having endured a trial for their committed crime.

Capital punishment

The legally authorised killing of someone as punishment for a crime.

Corporal punishment

A physical punishment, such as caning or flogging.

Recidivism

A person's relapse into criminal behaviour, often after said person receives sanctions or undergoes intervention for a previously committed crime.

Retribution

Punishment inflicted on someone as vengeance for a wrong and criminal act.

Deterrence

The inhibition of criminal behaviour by fear, generally through punishment.



Incapacitation

The act of making an individual 'incapable' of committing a crime, historically by execution or banishment, and in recent years by execution or lengthy periods of incarceration.

Rehabilitation

The idea that the purpose of punishment is to apply treatment and training to the offender so that they are made capable of returning to society and functioning as a law-abiding member of their community.

Restoration

A response to criminal behaviour which focuses on direct mediation and conflict resolution between the offender, the victims, their families and the community, whilst still holding the offender accountable and providing them with learning experiences that offer law-abiding lifestyles as realistic alternatives to criminal behaviour.

Coercive prisons

Systems in which correctional officers and other authoritative individuals use threats to make inmates act in a specific 'obedient' manner.

Pre-trial detention

The period during which an individual is deprived of liberty prior to their sentencing, including police detention.

General Overview

Broad and unclear range of punishment methods



As stated in the introduction, many countries use varying methods to punish criminal offenders. This poses a problem as certain countries may impose a harsher sentence, whereas another may impose a more lenient one, despite both being given for the same crime. For example, in countries where the possession, distribution and consumption of drugs is still extremely illegal, offenders will become a convicted felon and receive the same treatment as any other felon, perhaps even enduring capital punishment for this, whereas in countries where drugs have been decriminalised, they will not even be considered a felon and thus will not receive treatment comparable to that of a convicted criminal.

In countries whose main goals are to rehabilitate and restore the criminal offender, once they re-enter their society, this process will be much more facile for them in comparison to offenders in countries whose main goals are to retribute and incapacitate their incarcerated individuals. Not only do these latter goals produce perhaps all the more dangerous inhabitants, ultimately, they also affect prisoners' mental health extremely negatively due to the physical and cognitive abuse inflicted upon them; eliminating any space for the criminal to educate themselves about their wrongdoings and their effects on their society, and rather highlighting the idea that negative behaviour should be combatted through further negative behaviour; teaching criminals that harsh, rough and threatening actions are the solution for producing 'better' individuals and societies.

Violations of human rights

Although, ideally, the goal of detention centres would be to re-educate the detainees on their wrongdoings to prepare them for their entrance back into society, this target is often not achieved and instead prisons steer much farther from this guideline than expected and frequently opt for more violent and abusive routes of 'rehabilitation'. However, as prison violence is illegal and therefore punishable by law, prison abuse, torture and violence often go unreported due to prisoners' shared fear of potential consequences from correctional officers or other prisoners; the term 'snitches get stitches' stems from these situations, as it warns prisoners to beware of the



consequences if they opt to denounce their abusers. Due to the lack of reports, prison violence is rarely considered and generally overlooked; leaving prisoners stranded and literally fighting for their lives in an environment which is not only supposed to rehabilitate them, but also protect them from potentially harmful outsiders.

Due to violence from others within the prison, this then produces further intra-personal violence between inmates. Contrarily to common belief, violence will usually occur in prisons that have been designed to minimise violence through prevalent security measures such as high-security centres. Furthermore, violence also prevails extremely in coercive-practice prisons, which is extremely harmful as these types of prisons are usually psychiatric wards and other special prisons.

According to statistics, about 25% of American prisoners endure prison violence each year, 4- 5% experience sexual violence and abuse, and 1-2% are raped within the prison centres, be it by a fellow prisoner or an authoritative figure. Furthermore, US government statistics reflect that the rates of physical abuse for male detainees are over 18 times higher than the equivalent rates for males in the general American population. For female detainees, these rates are over 27 times higher than an average woman in the general population.

Lack of resources

Although the world has reached over 11 million detainees, countries and imprisoning organisations still neglect prisoners' basic human needs and continue to spend as little as 0.01 cents of national gross domestic product (GDP) on their prisoners. This is because, although so many are in favour of them, prisons are not political priorities and the funding which is invested will usually reach staff, security and infrastructure instead of detainees, their rights, and necessities.

In France, roughly 31% of detention administrations' 2017 budget was allocated to staff, administrative and managing costs. In Italy, this percentage is even higher; 76% of detention administrations' 2019 budget was allocated to staff and personnel costs. Although the maintenance of a manageable and accessible detention environment is



vital to maintain a prison in order and organisation, a strong focus on infrastructure and staff will generally mean that there is little focus left to give to the prisoners and their rehabilitation, and hence activities which help with this goal are neglected and remain ignored.

For example, during the heights of the COVID-19 pandemic, prisons were some of the most at-risk facilities of the globe; due to their overcrowding and lack in hygiene, access to fresh air, water and healthcare, inmates were at a constant risk of contracting the deadly virus. These unsanitary circumstances not only put detainees at risk, but also prison staff, as they lacked the resources to protect themselves and the members of their prisons whom they had a duty to protect. In response to this growing issue, certain countries hence opted for mass prison releases in response to a vast number of COVID contractions. This clearly reflects the direness of the situation; to protect them, their lives, and their societies, prisoners were *removed* from detention centres instead of given the appropriate resources and equipment to fight against the illness.

Furthermore, the amount of money invested into penitentiary systems is, on average, also significantly low. Where budgets are not high enough to cover even the most basic and necessary human needs, deaths due to malnutrition, mistreatment and ill-health are significantly prevalent. Due to this, the production of a rehabilitative environment is impossible and therefore incarceration becomes an infinite cycle of recidivism and long-lasting mental and physical effects on one and their society.

Overcrowding

Overcrowding is an extreme issue within prisons which needs to be resolved as soon as possible, as this affects every part and member of a prison centre. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) sets the guideline as a minimum of 4 occupied square metres per person in a shared prison accommodation, and a minimum of 6 occupied square metres per person in a single prison accommodation. With over 118 countries with prisons which exceed their maximum occupancy rate, and 11 national prison



systems who are currently holding more than double their maximum capacity, prisoners and prison staff are at risk daily for their lives. Due to overcrowding, access to basic needs including accommodation, health and security, and nutrition is not provided and therefore makes prisons substantially more dangerous and corrupt.

The causes of overcrowding are multiple; many organizations or governments will opt to place suspected individuals in pre-trial detention centers, and the use of these centers for minimal crimes such as petty theft, possession of drugs and trespassing fuel this rising issue.

As inmates' physical and mental health being often overlooked due to the vast number of inmates which are to be 'taken care' of, rates of self-inflicted or intra-personal violence as well as suicide are constantly increasing; inmates do not feel recognised and instead feel stripped of their lives, forcing them to turn to temporary as well as harmful 'solutions' within their prison. This neglect particularly affects minorities such as women and children kept in detention centers, groups which are already initially given little to no attention, and overcrowding aggravates these groups' prison experiences to perhaps even a traumatic level.

Major Parties Involved

The United States of America (USA)

The United States of America has, in no doubt, one of the world's most controversial stances on the matter of incarceration. In spite of their extreme development in terms of their economy, and their permanent membership in the United Nation's Security Council, they are one of 54 countries who still maintain capital punishment as an option for their prisoners; a matter which has been disputed thoroughly within the country and outside of it.

With over 2 million imprisoned individuals in the USA, which equates to approximately a



500% increase in numbers of individuals over the last 4 decades, and with an annual 80 billion dollars spent on correctional control, it is the world's leader in terms of rates of incarceration. Their attitude in regards of imprisonment can clearly be seen due to the significant increase of prisoners receiving a life sentence; starting from 34,000 prisoners receiving this sentence in 1984, in comparison to the current 203,865 prisoners in 2020. Furthermore, the USA's serious predicament regarding their treatment of people of colour is reflected in the statistic stating that black men are six times and Latino men are 2.5 times more likely to be incarcerated than a white man, and these inequalities prevail to this day.

People's Republic of China (PRC)

As one of the world's most powerful Communist states, the People's Republic of China is known for its torturous and abusive methods of incarceration, and most recently and notably, its 're education' camps, whose goal is to force minorities into performing slave-like tasks and behaviours as a punishment technique, all whilst remaining incarcerated with little to no rights under the control of extremist correctional officers.

Despite being officially forbidden in the country, corporal punishment is still widely prevalent in Chinese prisons and systematically implemented by prison guards and wardens. The victims of these systematic tortures generally include civil rights advocates, democratic activists, ethnic minorities such as Tibetans and Uyghurs, and members of non-state-controlled churches such as Buddhists and Christians, and these torturing sessions occur anywhere from police stations to psychiatric facilities, where individuals of authority are entitled to treat their prisoners how they deem appropriate.

Due to China's lack of transparency and continued use of censorship and propaganda, it is still impossible to outline completely their treatment of criminals and prisoners, as well as to battle the treatment which we are aware of.

Norway

Norway's approach to incarceration is, like many other Northern European countries,



significantly different to that of its Southern European counterparts and to the remainder of the globe. According to the Norwegian Prison and Probation Service (KDI), a prison sentence is simply, 'the deprivation or restriction of liberty, not loss of other fundamental human rights'. The country and prison centres, although they may seem far from being prisons, maintain the ideology that apart from losing their liberty due to their prosecution and sentence, prisoners remain as equal as other Norwegian citizens.

Their policies focus on the maintenance of humanity, and they are one of the few countries which emphasise strongly the restoration and rehabilitation aspects of incarceration. With as few as 3,600 prison centres in the country, the KDI has the ability to easily oversee each centre and ensure its correct management.

Furthermore, unlike the re-entrance of prisoners into society in countries with stricter prison regulations, the KDI attempts to facilitate prisoners' entrance back into society by equipping them with appropriate tools and preparing them as much as possible; organisations or private members of their community are contacted to help with housing, education, as well as other measures to facilitate the prisoner's re-entry into their society.

Besides remaining in the prison, detainees have activity or work duties. These include a range of production workshops using wood, metal, textile, and crafts, or doing laundry, cleaning, and further maintenance tasks. The completion of these tasks is rewarded through the acquiring of internships, certificates of competence and trade certificates; which all ease the inmates' re-entry into their community.

Since developing this penitentiary system, Norway's recidivism rates decrease from 60 to 70% to as little as 20% in recent years.

Penal Reform International (PRI)

Founded in 1989, PRI is a non-governmental organisation (NGO) active around the globe to promote criminal justice systems and centres which meet human rights standards for all individuals without posing any harm. For the last 30 years, they have



been attempting to disband the current inhumane prison sentences and conditions, and their achievements include key events such as opening hostels for released prisoners in Kenya and Tanzania, held the largest conference on prison conditions in Africa, helped enact legislation to release 360,000 individuals from Russian prisons to reduce overcrowding, and more.

They are a key organisation operating within the process of abolishing the death penalty in all countries, and their values include those of doing no harm, where prevention from harm within prisons as well as to detainees' families is sought, equality, where all have access to justice and a fair prosecution process as well as protection from discrimination, transparency, where they attempt to make all organisations completely honest about their activities, and lastly, humanity, which they put as the root and core of their work towards reaching justice and fairness throughout the globe and its penitentiary units.

As a prominent organisation in the reformation of incarceration systems, they have frequently worked with United Nations Bodies through their 'Consultative Status' within the ECOSOC committee, and work to assist the UN Office of the High Commissioner for Human Rights (OHCHR), the Department of Peace Operations, the UN Office on Drugs and Crime, and the UN Development Programme. They assist conferences and influence resolutions, debates and decisions within member-state led UN bodies such as the UN General Assembly and the Human Rights Council, and additionally work at regional level in compliance with inter-governmental bodies (IGOs) throughout the world.

Timeline of Key Events

| Date | Description of event |
|------------------------------|--|
| 1723 | The Bloody Code, a system which imposes the death penalty for over 200 offences, is established in Britain |
| June 25 th , 1790 | First recorded capital punishment execution of pirate Thomas Bird |



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| 1794 | The state of Pennsylvania becomes the first in the country to restrict capital punishment to first-degree murder |
| 1820 | The Bloody Code is abolished by Sir Robert Peel, the founder of Britain's Conservative Party |
| 1863 | Venezuela becomes the first country to abolish the death penalty for all crimes |
| June 30 th , 1950 | Austria is the first member of the European Union to abolish the death penalty for <i>ordinary crimes</i> |
| December 14 th , 1990 | The United Nations approve a resolution outlining the Tokyo Rules |
| March 16 th , 2011 | The United Nations approve a resolution outlining the Bangkok Rules |
| January 8 th , 2016 | The United Nations approve a resolution outlining the Nelson Mandela Rules |
| November 2019 | Information surrounding China's mistreatment of minorities is leaked to the press and media |

UN involvement, Relevant Resolutions, Treaties and Events

- *United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)*, 14 December 1990 (A/45/110)
- *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)*, 16 March 2011 (A/65/457)
- *United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)*, 8 January 2016 (A/70/490)

Previous Attempts to solve the Issue

As previously mentioned in this report, Northern European countries have made drastic changes to their prison systems to reform their goals from retribution and incapacitation to rehabilitation and restoration and this significantly reduced recidivism



rates as well as overall inmate health. This clearly shows that maintaining detainees' rights by providing them with a spacious, safe, and hygienic environment is an effective manner of incarcerating them, without fully stripping them of their rights.

However, progress still needs to be made. Despite the approval of various resolutions and the establishment of various rules surrounding incarceration centres including the conduct of correctional officers and prisoners, these still remain ignored too frequently and prisoners' human rights are neglected, leading to potentially fatal consequences for not only the detainees themselves, but their detainers as well.

Possible Solutions

To resolve the issue and find an alternative to harsh incarceration, all member states should create and sign a Treaty which would legally bind them to following a specific set of conditions and rules surrounding penitentiary centres, inmate treatment, funding, and infrastructure. Furthermore, NGOs and other members of relevant organisations could perhaps organise visits, either secret or non-secret, to detainment units around the globe to examine whether they fit the standards of the Treaty.

Countries could potentially, at a certain interval within the year, pay a specific amount of money (depending on their GDP), which would ensure the correct and fair funding of detention centres as well as care for the inmates and prison staff, and if they chose not to do so, would therefore not receive funding for their prison centres; this would drastically affect the country as thousands of inmates would become misplaced, leading to potentially more dangerous areas within the land.

To combat the disobedience of the Treaty and its regulations, countries which opt to do so should receive harsh consequences such as paying a certain amount of money or perhaps completely shutting the prison. However, in this scenario, this could potentially increase the number of detainees in one centre due to mass overcrowding, so one would have to carefully evaluate what to do to prevent this.



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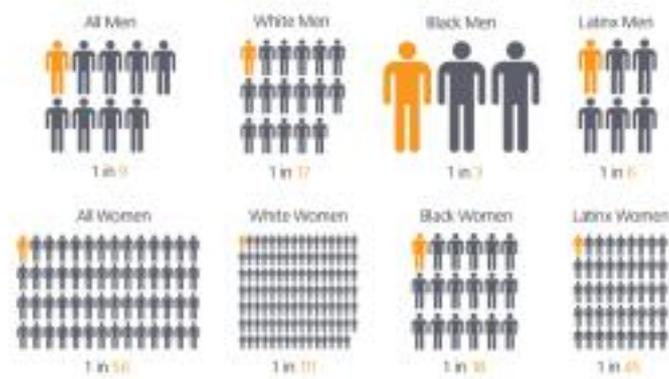
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Appendix or Appendices



I. Lifetime Likelihood of Imprisonment of U.S. Citizens Born in 2001

