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Implementing prison reforms to improve the
treatment of inmates



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Introduction

A prison is a facility wherein individuals are confined and denied a variety of freedoms under the authority of the state. These facilities are most frequently used within a criminal justice system, meaning that individuals who have been charged with crimes may be detained pending their trial and that individuals who have been found guilty of crimes at trial may be sentenced to a specific period of imprisonment. Nowadays, prisons often hold hundreds or thousands of inmates and must, therefore, have adequate facilities to meet their most basic needs including dietary, fitness, health, education, religious practices, and many more ("Prison"). However, conditions in prisons vary widely in different countries and they largely depend on a combination of factors, including funding and cultural and/or religious beliefs. Incarceration, however, has proven to be ineffective with regards to reducing recidivism as within five years of release, about three-quarters of prisoners are reconvicted ("Recidivism"). Due to this, as the majority of inmates are eventually released back into their communities, it is important to implement reforms which would effectively transform how prisons are run, in order to give prisoners the skills they need to become law-abiding citizens once they are released. A sentence of imprisonment does not call for the restriction of human rights, other than the basic right to liberty which is restricted by the fact of being in prison itself. Therefore, prison reforms are necessary to ensure that the human rights of all inmates are protected and to make certain that their prospects for social reintegration, once they're released, are increased.

Definition of Key Terms

Prison

A building in which people are confined, as punishment, for having committed a crime or while awaiting trial.



Prison Reforms

Prison reforms are the attempt to improve conditions inside prisons, often by either establishing a more effective penal system or by implementing alternatives to incarceration.

Inmate

A person who is confined to one place, in this case a prison.

Recidivism

The act of a person repeating undesirable behaviour, such as criminals reoffending.

United Nations Office on Drugs and Crime (UNODC)

The United Nations Office on Drugs and Crime (UNODC) is a United Nations office that was established in 1997 and is a member of the United Nations Development Group. UNODC was established to assist the UN in their struggle against various issues, including those of crime prevention and criminal justice. The three primary functions of the UNODC work programme are: research, guidance and support to governments in the adoption and implementation of various conventions, treaties and protocols (“UNODC”).

HIV/AIDS

Acquired immunodeficiency syndrome (AIDS) is a syndrome caused by a virus called Human immunodeficiency virus (HIV). The disease makes those who are infected become much more vulnerable to infections and diseases by altering their immune system. HIV is transmitted through the exchange of bodily fluids of an infected person with a healthy one.

Habeas Corpus

A writ demanding an individual who is under arrest to be brought before a judge, or into court, in order to assure the individual’s release until legitimate proof has been obtained for their detention.

Literacy

The ability to read and write.

Vigilantism

The undertaking of law enforcement without any legal authority by a group of people.



Deterrence

The discouragement of criminal behavior by fear, mainly of punishment.

General Overview

Prison reform movement

One of the most notable early prison reformers was John Howard. Howard visited numerous prisons across Europe and was shocked to discover that many prisoners were still confined after having been acquitted because they couldn't pay the prison officer ("Prison"). Howard proposed various reforms to the penal system including the requirements that all staff should be highly professional and be paid for by the government, the suggestion that inmates should be confined in separate cells, the requirement that inspections on prisons must take place, and that all inmates should be provided with a healthy diet and adequate living conditions. Due to this, the Penitentiary Act was passed in 1779, leading to the introduction of solitary confinement, a labor regime, and more ("Prison reform").

Dorothea Dix was another significant figure in prison reform. Dix spent many years visiting various prisons in the US and found the living conditions to be unacceptable; men, women, and children were all grouped together, adequate healthcare was not available to those who were in need of it, and the mentally ill were abused ("Prison Reform: History, Issues & Movement"). Following these discoveries, Dix campaigned for change, and successfully managed to make notable differences; hospitals and asylums were built for the ill and mental unstable, numerous states created a separate judicial system for children, and debtors were no longer imprisoned ("Prison Reform: History, Issues & Movement").

Retribution, vengeance and retaliation

The primal objective of this model is to prevent vigilantism, clan warfare, and other actions based upon the belief of needing to have revenge for a crime that has taken place against them or family/clan members. An example of this model would be when a murderer is punished with the death penalty, with the action being justified with "justice demands a life for a life" ("Prison reform"). A prominent criticism of long term prison sentences is that the confinement of criminals is expensive, though it's important to note that the appeals of a death penalty case may well exceed the price of the confinement of the criminal. Moreover, another argument in favour of the death penalty is based upon the need to respect human rights; no human should be dehumanised to the extent of being held in a cage for life, meaning that even the death penalty is more correct, morally and ethically, than no-parole



prison sentences. However, this is extremely controversial, as many believe that it is not up to us humans to determine whether other individuals deserve to live or die, no matter the circumstance.

Deterrence

The deterrence model often exacts much more severe punishments than would seem adequate for the crime. Torture, public embarrassment, stocks, and excommunication are all methods which have been used in the past as deterrents (“Prison reform”). Moreover, executions, especially the more dire ones, such as hanging or beheading, are other examples of attempts at deterrence. Even though these punishments may seem to have important consequences, a prominent criticism of the deterrence model is that criminals are only punished for a short period of time, meaning that they are often unfazed by the possibility of any long-term consequences. In addition to this, the quality of life of those who are made to follow the deterrence model may be so appalling that any sort of treatment within the criminal justice system can only be seen as an improvement compared to their previous situation.

Rehabilitation, reform of the individual, and correction

The main objective of this concept is to effectively “repair” the criminal in order to then be able to return them to their community (“Prison reform”). The main factors which are stressed within this proposition are education, delayed gratification, work skills, respect, and self-discipline (“Prison reform”). The individuals who are most likely to be successfully reformed are those who are younger and who have committed less severe crimes. However, some criticize this model as criminals tend to be rewarded with training and items which they wouldn't have had if they hadn't committed the crime in the first place (“Prison reform”).

Healthcare

Prisons in wealthy and industrialised nations provide appropriate medical care for the majority of their inmates. Moreover, the prison population is monitored, organised and controlled by medical staff through the use of psychiatric evaluations and interventions with the use of drugs, mental health units, and methods such as isolation (“Prison”). It's important to note that prison populations are largely composed of individuals from poor, minority communities with greater rates of substance abuse, and both chronic and mental illnesses than the general population (“Prison”). This means that prisons have a high demand for medical services and, in some countries such as the US, prisons are the first place in which some individuals are able to receive medical treatment that they wouldn't have been able to



afford on the outside. Prison medical facilities tend to include primary care, mental health services, dental care, substance abuse treatment, and various other forms of specialized care which are based on the needs of the prison population. However, most health care services in the majority of prisons have been criticized for being substandard and incompetent, underfunded, understaffed, and abusive to many prisoners.

A prominent health issue faced in prisons globally is HIV/AIDS. As of 2018, it is estimated that around 3.8% of the global prison population is affected by HIV with Africa, Eastern and Western Europe, and Central Asia being the regions where prisoners are most affected (“Prisoners, HIV and AIDS”). Prisons are a high-risk environment for HIV transmission as a lot of drug use, sharing of needles, unprotected sex, and rape commonly takes place. In addition to this, factors such as overcrowding, increased stress levels, malnutrition, drugs, and violence all weaken the immune system, hence increasing susceptibility to HIV. Presentations and programmes regarding HIV and its prevention are rarely made available to inmates, and many inmates who have already been affected are unable to receive the necessary antiretroviral treatment (ART).

Recreation and fitness

The majority of prisons only provide a limited amount of recreational and fitness facilities for their inmates. Some of the most common facilities present in prisons include gyms, board-games, televisions, arts and crafts programmes, and an outdoor recreation space (“Prison”). The provision of such facilities is quite controversial; some believe that the availability of these facilities would suggest that prisons are being too lenient with their inmates, whereas others believe that it is inhumane to confine individuals for long periods of time without access to any recreational facilities (“Prison”). However, many prison administrators tend to view the accessibility of recreational opportunities to be helpful with regards to maintaining order within prisons as they can be used as leverage to achieve compliance by essentially depriving inmates of these facilities as punishment (“Prison”).

Library and educational facilities

Some prisons provide their inmates with educational programmes that can include basic literacy, secondary education, or even vocational and tertiary education (“Prison”). It is important for inmates to have access to education for numerous reasons, including the development of the sets of skills they’ll require once they’re released back into their communities. However, many individuals are against the availability of such facilities for inmates as they believe that prisons should be stricter with their prisoners. Nevertheless, the



majority of inmates have very low literacy rates and lack basic mathematical skills, meaning that their opportunities of being employed outside of prison are limited, consequently leading to high rates of recidivism.

A large number of prisons also provide their inmates with a library in which the prisoners can check out books of their choice (“Prison”). Even though these libraries tend to be very small, they can seriously improve the quality of life of many prisoners as they allow said individuals to occupy their free time with some reading. This benefits inmates as it contributes to improving their literacy and it encourages them to reflect on themselves, leading to a more successful re-entry into their communities after their release.

Overcrowding

A prominent concern in the majority of prisons worldwide is overcrowding. This issue is the root cause of various human rights violations in prisons but the prison population in many countries is continues to increase due to the punitive criminal policies and the lack of social protection services within communities (“Prison Reform and Alternatives to Imprisonment”).



Image source: https://az616578.vo.msecnd.net/files/2016/06/29/636028252088578202-2030250664_HEAD4.jpg

Major Parties Involved

Amnesty International

Amnesty International is a non-governmental organization (NGO) founded in 1961, whose main focus is to protect human rights. Amnesty activists have been campaigning for



those facing danger in prison. The members of this organization actively work to promote the implementation of prison reforms, which would ameliorate the treatment of inmates.

Myanmar

Prisons in Myanmar are infamous as sites of human rights abuses as prisoners have been known to be subjected to torture and inhuman conditions (“Myanmar: Prison reforms must respect human rights”). The government and the country’s parliamentarians are considering implementing prison reforms to end the ill-treatment of inmates. Myanmar’s parliament proposed a draft Prisons Law in July 2015 with the objective to improve the rehabilitation programs of the prisoners and to reduce the recidivism rate (“Myanmar: Prison reforms must respect human rights”). This would’ve impacted the laws that are currently in use and that are facilitating conditions wherein prisoners are tortured, confined in overcrowded spaces, denied clean water and suitable healthcare, and subject to forced labor and other harsh punishments.

The Netherlands

The Netherlands used to have one of the highest imprisonment rates in Western Europe, though this changed as prisons were expensive and proved to be ineffective in preventing reoffending. Due to this, authorities researched alternatives to imprisonment. For example, in the town of Dordrecht, inmates are able to walk freely through regulated areas, and each prisoner is given a key to his/her individual cell. Inmates are also provided with wardrobes of clothes, a television, and their own personal bathroom with the intention of preparing them for life outside of the prison. Moreover, as the Dutch correction systems believe it’s important to keep inmates involved with their communities, prisoners retain their right to vote, and many are given the opportunity to spend the weekends at home with their families (Moraff), effectively lowering recidivism. Since the 1980s, the Dutch authorities have preferred fines over incarceration and this is shown by the fact that less than 1 in 10 convicted criminal offenders are sent to prison and that 90% of all crimes have a fine as one of the available adjudicatory options (Moraff).

Germany

In Germany, “up to a third of all criminal cases are diverted away from prosecution altogether” (Moraff). Instead, offenders are required to pay reparations, attend classes, or do community service. Electronic monitors, and other forms of community supervision, are often used in Germany to give offenders as much freedom as possible, while still monitoring them.



In addition to this, incarceration in Germany is used for short periods of time, with 75% of prison sentences being one year or less.

United States of America (USA)

The U.S. prison population has increased by 700% in the last 40 years (Shames, Subramanian). Nevertheless, the national recidivism rate remains high at 40%, which means that 4 in 10 incarcerated offenders will return to prison within 3 years of their initial release (Shames, Subramanian). The U.S. prison system is mainly focused on the punishment and incapacitation of offenders, with around 70% of convicted criminal offenders being sent to prison. Incarceration in the USA isn't only used more frequently, it is also used for longer periods of time; the U.S. incarceration rate is 655 per 100,000 population and the average U.S. prison sentence is 3 years (Shames, Subramanian). In 2015, various organisations joined efforts to address criminal justice reform in the US. Together they are combatting the systematic over-criminalisation and over-incarceration of individuals from relatively low-income and minority communities. Moreover, these reformers are also working to reduce recidivism rates and to diminish the obstacles faced by ex-convicts, such as discrimination, seeking new employment in the work force.

Timeline of Key Events

Timeline of events in reverse chronological order leading up to present day.

Date	Description of Event
1215	In the UK, King John signed the Magna Carta, marking the beginning of English judicial rights by stating that no individual could be imprisoned without trial.
1300	Conditions in prison are basic; prisoners are made to sleep on bare earth and are given bread and water every other day.
1600	Incarceration rate in England rises exponentially as juries become increasingly reluctant to sentence people to the gallows for small crimes.
1829	The first experiment in solitary confinement in the US took place at the Eastern State Penitentiary in Philadelphia.



1847	Michigan becomes the first state in the USA to abolish the death penalty for all crimes except treason.
1878	Prisons Act was published in the UK, leading to the closure of the most abusive prisons and bringing all prisons under the control of a national system run by the Prison Commission.
1907-1917	Nine US states either completely abolish the death penalty for all crimes or strictly limit it.
1922	Separate confinement abolished in the UK.
1924	The use of cyanide gas is introduced in the US as a method of execution.
1948	Criminal Justice Act published in the UK with the recommendation of increasing periods of imprisonment for training and rehabilitation and with the intention of increasing efforts to involve staff in the reform of prisoners.
10 December 1948	Universal Declaration of Human Rights.
1955	United Nations Standard Minimum Rules for the Treatment of Prisoners.
1950-1960	The Prisoners' Rights Movement began, with prisoners seeking enforcement of their constitutional rights via habeas corpus and the Civil Rights Act.
1966	Public support of the death penalty reaches an all time low, with a Gallup poll showing that only 42% of the population is in favour of its use.
17 December 1979	Code of Conduct for Law Enforcement Officials.
25 May 1984	Safeguards guaranteeing protection of the rights of those facing the death penalty.
10 December 1984	The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
9 December 1988	Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment.
14 December 1990	Basic Principles for the Treatment of Prisoners.



14 December 1990	United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules).
18 December 1992	UN Declaration on the Protection of All Persons from Enforced Disappearance.
19-21 September 1996	Kampala Declaration on Prison Conditions in Africa.
27 February 1999	Arusha Declaration on Good Prison Practice.
21 December 2010	United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules).
November 2016	A white paper on Prison Safety and Reform was published by the 2015-17 Conservative government. It set out proposals which aimed to deal with increasing levels of violence and self-harm in prisons as well as the persistently high levels of reoffending.
February 2017	The Prisons and Courts Bill was published. The Bill contained provisions about prisons.
October 2017	The contemporary British Justice Secretary, David Lidington, stated that the government was developing an update to the 2016 white paper, and that a prison safety and action plan would soon be published.

Previous Attempts to Resolve the Issue

Prisoner's Rights Movement

In 1963 it was decided that prisoners had the right to file a court order of habeas corpus and hereby challenge the legitimacy of their sentence and the conditions of their incarceration. In 1964, SCOTUS "ruled in a unanimous vote that inmates had the right to protection under the Civil Rights Act of 1871" (O'Neil). Due to this, countless lawsuits were filled in the year 1960-1970. Many of the most significant prisoners' rights lawyers used the notions and concepts of the civil rights movement to create a new body of law for prisoners. Many prison authorities believed the prisoner's rights movement to be beneficial as it enabled the government to see the benefits of allowing these institutions more funding as they'd then be able to afford more trained staff and run the places in a more adequate manner. In September 1971, a 4-day riot took place in New York with around 2,200 prisoners



seizing control of their prison in protest of better living conditions (O'Neil). After the security arrived, 39 men were killed (O'Neil).

White Paper on Prison Safety and Reform

In November 2016, the British Conservative government published a white paper on Prison Safety and Reform. Among other aspects, it stated that it would:

- Take immediate action to increase prison security and to increase funding in order to ensure that inmates are matched with professional prison officers who are able to offer the necessary support.
- Establish clear standards for what is expected from prisons and give all governors the power to establish how these services are delivered.
- Create a modern establishment which will empower and reform inmates, consequently giving them opportunities once they are released.

Prison and Courts Bill

This bill was published in February 2017 and it made provisions about prisons, particularly with regards to the practice and procedure, organisation, and functions of courts and tribunals, and the appointment and deployment of the judiciary and the Judicial Appointments Commission.

UN involvement, Relevant Resolutions, Treaties and Events

The UN, and most notably the UNODC, have been involved in the issue by cooperating and agreeing on various resolution. Perhaps the most important that are directly concerned with prison reform are:

- UN Standard Minimum Rules for the Treatment of Prisoners (SMRs), 1955, (A/RES/70/175).
- Basic Principles for the Treatment of Prisoners, 14 December 1990, (RES/45/111).
- United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules), 14 December 1990, (RES/45/110).



- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), 21 December 2010, (RES/65/229).

Possible Solutions

One of the main concerns in prisons globally, as mentioned before, is overcrowding. This issue can be temporarily decreased by building new prisons to attempt to spread out the prison population. However, it has been shown that constructing new prisons to solve the detrimental effects of overcrowding does not provide a sustainable solution. Moreover, the construction and maintenance of new prisons is expensive, and would therefore exhaust valuable resources. As an alternative, it is recommended to rationalize in sentencing policy and to take more alternatives to incarceration into consideration in order to reduce the number of individuals who are kept in confinement away from society for extensive periods of time.

Another crucial aspect of prison life which must be ameliorated is healthcare. UNODC provides technical assistance with regards to healthcare in prisons on the premise that penal reform and healthcare in these facilities are akin, and that an effective scheme needs to be established with regards to the significant threat of HIV/AIDS and other transmissible diseases in the prison environment, such as tuberculosis (TB). This issue may be tackled by improving prison administration and living conditions, as these are crucial to the development of a viable health strategy in prisons.

Nevertheless, it's important to note that many organisations are involving themselves with the issue at hand and are progressively making an impact on prison reforms worldwide, meaning that there are high hopes for the future treatment of inmates.

Appendices

Appendix I

Factual recount on the history of prisons:

<http://www.prisonhistory.net/prison-history/history-of-prisons/>

Appendix II

A detailed timeline of the development of prison reforms:



https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&ved=0ahUK_Ewjr_I6Hto_cAhVEKIAKHWGSB_sQFghUMAQ&url=https%3A%2F%2Fwww.preceden.com%2Ftimelines%2F23091-history-and-development-of-corrections-1700-present&usg=AOvVaw3avsuvkTWJXrBgsg0MsGaN

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