

Prison Reform

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Prison reform is the attempt to improve conditions inside prisons, aiming at a more effective penal system.

History

Prisons have only been used as the primary punishment for criminal acts in the last couple of centuries. Far more common earlier were various types of corporal punishment, public humiliation, penal bondage, and banishment for more severe offences, as well as capital punishment.

United States

In colonial America, punishments were severe. The Massachusetts assembly in 1736 ordered that a thief, on first conviction, be fined or whipped. The second time he was to pay treble damages, sit for an hour upon the gallows platform with a noose around his neck and then be carted to the whipping post for thirty stripes. For the third offense he was to be hanged. But the implementation was haphazard as there was no effective police system and judges wouldn't convict if they believed the punishment was excessive. The local jails mainly held men awaiting trial or punishment and those in debt.

In the aftermath of independence most states amended their criminal punishment statutes. Pennsylvania eliminated the death penalty for robbery and burglary in 1786, and in 1794 retained it only for first degree murder. Other states followed and in all cases the answer to what alternative penalties should be imposed was incarceration. Pennsylvania turned its old jail at Walnut Street into a state prison. New York built Newgate state prison in Greenwich Village and other states followed. But by 1820 faith in the efficacy of legal reform had declined as statutory changes had no discernable effect on the level of crime and the prisons, where prisoners shared large rooms and booty including alcohol, had become riotous and prone to escapes.

In response, New York developed the Auburn system in which prisoners were confined in separate cells and prohibited from talking when eating and working together, implementing it at Auburn State Prison and Sing Sing at Ossining. The aim of this was rehabilitative: the reformers talked about the penitentiary serving as a model for the family and the school and almost all the states adopted the plan (though Pennsylvania went even further in separating prisoners). The system's fame spread and visitors to the U.S. to see the prisons included de Tocqueville who wrote *Democracy in America* as a result of his visit.

However by the 1860s, overcrowding became the rule of the day, partly because of the long sentences given for violent crimes, despite increasing severity inside the prison and often cruel methods of gagging and restraining prisoners. An increasing proportion of prisoners were new immigrants. As a result of a tour of prisons in 18 states, Enoch Wines and Theodore Dwight

produced a monumental report describing the flaws in the existing system and proposing remedies. Their critical finding was that not one of the state prisons in the United States was seeking the reformation of its inmates as a primary goal. They set out an agenda for reform which was endorsed by a National Congress in Cincinnati in 1870. These ideas were put into practice in the Elmira Reformatory in New York in 1876 run by Zebulon Brockway. At the core of the design was an educational program which included general subjects and vocational training for the less capable. Instead of fixed sentences, prisoners who did well could be released early.

But by the 1890s, Elmira had twice as many inmates as it was designed for and they were not only the first offenders between 16 and 31 for which the program was intended. Although it had a number of imitators in different states, it did little to halt the deterioration of the country's prisons which carried on a dreary life of their own. In the southern states, in which blacks made up more than 75% of the inmates, there was ruthless exploitation in which the states leased prisoners as chain gangs to entrepreneurs who treated them worse than slaves. By the 1920s drug use in prisons was also becoming a problem.

At the beginning of the twentieth century, psychiatric interpretations of social deviance were gaining a central role in criminology and policy making. By 1926, 67 prisons employed psychiatrists and 45 had psychologists. The language of medicine was applied in an attempt to "cure" offenders of their criminality. In fact, little was known about the causes of their behaviour and prescriptions were not much different from the earlier reform methods. A system of probation was introduced, but often used simply as an alternative to suspended sentences, and the probation officers appointed had little training, and their caseloads numbered several hundred making assistance or surveillance practically impossible. At the same time they could revoke the probation status without going through another trial or other proper process.

In 1913, Thomas Mott Osborne became chairman of a commission for the reform of the New York prison system and introduced a Mutual Welfare League at Auburn with a committee of 49 prisoners appointed by secret ballot from the 1400 inmates. He also removed the striped dress uniform at Sing Sing and introduced recreation and movies. Progressive reform resulted in the "Big House" by the late twenties - prisons averaging 2,500 men with professional management designed to eliminate the abusive forms of corporal punishment and prison labor prevailing at the time.

The American prison system was shaken by a series of riots in the early 1950s triggered by deficiencies of prison facilities, lack of hygiene or medical care, poor food quality, and guard brutality. In the next decade all these demands were recognized as rights by the courts. In 1954, the American Prison Association changed its name to the American Correctional Association and the rehabilitative emphasis was formalized in the 1955 United Nations Standard Minimum Rules for the Treatment of Prisoners.

Since the 1960s the prison population in the US has risen steadily, even during periods where the

crime rate has fallen. This is partly due to profound changes in sentencing practices due to a denunciation of lenient policies in the late sixties and early seventies and assertions that rehabilitative purposes don't work. As a consequence sentencing commissions started to establish minimum as well as maximum sentencing guidelines, which have reduced the discretion of parole authorities and also reduced parole supervision of released prisoners.

United Kingdom

Eighteenth century English justice used a wide variety of measures to punish crime, including fines, the pillory and whipping. Transportation to America was often offered, till 1776, as an alternative to the death penalty, which could be imposed for many offenses including pilfering. When they ran out of prisons in 1776 they used old sailing vessels which came to be called hulks as places of temporary confinement.

Jails contained both felons and debtors - the latter were allowed to bring in wives and children. The jailer made his money by charging the inmates for food and drink and legal services and the whole system was corrupt. One reform of the sixteenth century had been the establishment of the London Bridewell as a house of correction for women and children. This was the only place any medical services were provided.

The most notable reformer was John Howard who, having visited several hundred prisons across England and Europe, beginning when he was high sheriff of Bedfordshire, published *The State of the Prisons* in 1777. He was particularly appalled to discover prisoners who had been acquitted but were still confined because they couldn't pay the jailer's fees. He proposed that each prisoner should be in a separate cell with separate sections for women felons, men felons, young offenders and debtors. The prison reform charity, the Howard League for Penal Reform, takes its name from John Howard.

The Penitentiary Act which passed in 1779 following his agitation introduced solitary confinement, religious instruction and a labor regime and proposed two state penitentiaries, one for men and one for women. These were never built due to disagreements in the committee and pressures from wars with France and jails remained a local responsibility. But other measures passed in the next few years provided magistrates with the powers to implement many of these reforms and eventually in 1815 jail fees were abolished.

Quakers such as Elizabeth Fry continued to publicize the dire state of prisons as did Charles Dickens in his novel *David Copperfield* about the Marshalsea. Samuel Romilly managed to repeal the death penalty for theft in 1806, but repealing it for other similar offences brought in a political element that had previously been absent. The Society for the Improvement of Prison Discipline, founded in 1816, supported both the Panopticon for the design of prisons and the use of the

treadwheel as a means of hard labor. By 1824, 54 prisons had adopted this means of discipline. Robert Peel's Gaols Act of 1823 attempted to impose uniformity in the country but local prisons remained under the control of magistrates until the Prison Act of 1877.

The American separate system attracted the attention of some reformers and led to the creation of Millbank Prison in 1816 and Pentonville prison in 1842. By now the end of transportation to Australia and the use of hulks was in sight and Joshua Jebb set an ambitious program of prison building with one large prison opening per year. The main principles were separation and hard labour for serious crimes, using treadwheels and cranks. However by the 1860s public opinion was calling for harsher measures in reaction to an increase in crime which was perceived to come from the 'flood of criminals' released under the penal servitude system. The reaction from the committee set up under the commissioner of prisons, Colonel Edmund du Cane, was to increase minimum sentences for many offences with deterrent principles of 'hard labour, hard fare, and a hard bed'. In 1877 he encouraged Disraeli's government to remove all prisons from local government and held a firm grip on the prison system till his forced retirement in 1895. He also established a tradition of secrecy which lasted till the 1970s so that even magistrates and investigators were unable to see the insides of prisons. By the 1890s the prison population was over 20,000.

In 1894-5 Herbert Gladstone's Committee on Prisons showed that criminal propensity peaked from the mid-teens to the mid-twenties. He took the view that central government should break the cycle of offending and imprisonment by establishing a new type of reformatory, that was called Borstal after the village in Kent which housed the first one. The movement reached its peak after the first world war when Alexander Paterson became commissioner, delegating authority and encouraging personal responsibility in the fashion of the English Public school: cellblocks were designated as 'houses' by name and had a housemaster. Cross-country walks were encouraged, and no one ran away. Prison populations remained at a low level until after the second world war when Paterson died and the movement was unable to update itself.

Some aspects of Borstal found their way into the main prison system, including open prisons and housemasters, renamed assistant governors and many Borstal-trained prison officers used their experience in the wider service. But in general the prison system in the twentieth century remained in Victorian buildings which steadily became more and more overcrowded with inevitable results.

Europe

The first public prison in Europe was Le Stinche in Florence, constructed in 1297, copied in several other cities. The more modern use grew from the prison workhouse from 1600 in Holland. The house was normally managed by a married couple, the 'father' and 'mother', usually with a work master and discipline master. The inmates, or journeymen, often spent their time on spinning, weaving and fabricating cloths and their output was measured and those who exceeded the

minimum received a small sum of money with which they could buy extras from the indoor father.

An exception to the rule of forced labor were those inmates whose families could not look after them and paid for them to be in the workhouse. From the later 17th century private institutions for the insane, called the *beterhuis*, developed to meet this need.

In Hamburg a different pattern occurred with the *spinhaus* in 1669, to which only infamous criminals were admitted. This was paid by the public treasury and the pattern spread in eighteenth century Germany. In France the use of galley servitude was most common until galleys were abolished in 1748. After this the condemned were put to work in naval arsenals doing heavy work. Confinement originated from the *hospitaux généraux* which were mostly asylums, though in Paris they included many convicts, and persisted up till the revolution.

The use of capital punishment and judicial torture declined during the eighteenth century and imprisonment came to dominate the system, although reform movements started almost immediately. Many countries were committed to the goal as a financially self-sustaining institution and the organization was often subcontracted to entrepreneurs, though this created its own tensions and abuse. By the mid nineteenth century several countries initiated experiments in allowing the prisoners to choose the trades in which they were to be apprenticed. The growing amount of recidivism in the latter half of the nineteenth century led a number of criminologists to argue that "imprisonment did not, and could not fulfill its original ideal of treatment aimed at reintegrating the offender into the community". Belgium led the way in introducing the suspended sentence for first-time offenders in 1888, followed by France in 1891 and most other countries in the next few years. Parole had been introduced on an experimental basis in France in the 1830s, with laws for juveniles introduced in 1850, and Portugal began to use it for adult criminals from 1861. The parole system introduced in France in 1885 made use of a strong private patronage network. Parole was approved throughout Europe at the International Prison Congress of 1910. As a result of these reforms the prison populations of many European countries halved in the first half of the twentieth century.

Exceptions to this trend included France and Italy between the world wars, when there was a huge increase in the use of imprisonment. The National Socialist state in Germany used it as an important tool to rid itself of its enemies as crime rates rocketed as a consequence of new categories of criminal behavior. Russia, which had only started to reform its penal and judicial system in 1860 by abolishing corporal punishment, continued the use of exile with hard labor as a punishment and this was increased to a new level of brutality under Joseph Stalin, despite early reforms by the Bolsheviks.

Postwar reforms stressed the need for the state to tailor punishment to the individual convicted criminal. In 1965, Sweden enacted a new criminal code emphasizing non-institutional alternatives to punishment including conditional sentences, probation for first-time offenders and the more

extensive use of fines. The use of probation caused a dramatic decline in the number of women serving long-term sentences: in France the number fell from 5,231 in 1946 to 1,121 in 1980. Probation spread to most European countries though the level of surveillance varies. In the Netherlands, religious and philanthropic groups are responsible for much of the probationary care. The Dutch government invests heavily in correctional personnel, having 3,100 for 4,500 prisoners in 1959.

However despite these reforms, numbers in prison started to grow again after the 1960s even in countries committed to non-custodial policies.

Theory

Retribution, vengeance and retaliation

This is founded on the "eye for an eye, tooth for a tooth" incarceration philosophy, which essentially states that if one person harms another, then an equivalent harm should be done to them. One goal here is to prevent vigilantism, gang or clan warfare, and other actions by those who have an unsatisfied need to "get even" for a crime against them, their family, or their group. It is, however, difficult to determine how to equate different types of "harm". A literal case is where a murderer is punished with the death penalty, the argument being "justice demands a life for a life". One criticism of long term prison sentences and other methods for achieving justice is that such "warehousing" of criminals is rather expensive, this argument notwithstanding the fact that the multiple incarceration appeals of a death penalty case often exceed the price of the "warehousing" of the criminal in question. Yet another facet of this debate disregards the financial cost for the most part. The argument regarding warehousing rests, in this case, upon the theory that any punishment considered respectful of human rights should not include caging humans for life without chance of release--that even death is morally and ethically a higher road than no-parole prison sentences.

Deterrence

The criminal is used as a "threat to themselves and others". By subjecting prisoners to harsh conditions, authorities hope to convince them to avoid future criminal behavior and to exemplify for others the rewards for avoiding such behavior; that is, the fear of punishment will win over whatever benefit or pleasure the illegal activity might bring. The deterrence model frequently goes far beyond "an eye for an eye", exacting a more severe punishment than would seem to be indicated by the crime. Torture has been used in the past as a deterrent, as has the public embarrassment and discomfort of stocks, and, in religious communities, excommunication. Executions, particularly gruesome ones (such as hanging or beheading), often for petty offenses, are further examples of attempts at deterrence. One criticism of the deterrence model is that

criminals typically have a rather short-term orientation, and the possibility of long-term consequences is of little importance to them. Also, their quality of life may be so horrific that any treatment within the criminal justice system (which is compatible with human rights law) will only be seen as an improvement over their previous situation. However, if that's the case, this points to a far more severe social problem.

Rehabilitation, reform and correction

("Reform" here refers to reform of the individual, not the reform of the penal system.) The goal is to "repair" the deficiencies in the individual and return them as productive members of society. Education, work skills, deferred gratification, treating others with respect, and self-discipline are stressed. Younger criminals who have committed fewer and less severe crimes are most likely to be successfully reformed. "Reform schools" and "boot camps" are set up according to this model. One criticism of this model is that criminals are rewarded with training and other items which would not have been available to them had they not committed a crime. However, it must be noted that criminals or potential criminals who do not have access to such educational resources are only acting in their best interests by gaining access to these prisons; if a prison is successful at providing resources to individuals who were unable to get these resources through "acceptable" channels, then perhaps what would be next needed, in the implementation of this model, is societal reform.

Prior to its closing in late 1969, Eastern State Penitentiary, then known as State Correctional Institution, Philadelphia, had established a far reaching program of voluntary group therapy with the goal of having all inmates in the prison involved. From 1967 when the plan was initiated, the program appears to have been successful as many inmates did volunteer for group therapy. An interesting aspect was that the groups were to be led by two therapists, one from the psychology or social work department and a second from one of the officers among the prison guard staff.

Removal from society

The goal here is simply to keep criminals away from potential victims, thus reducing the number of crimes they can commit. The criticism of this model is that others increase the number and severity of crimes they commit to make up for the "vacuum" left by the removed criminal. For example, incarcerating a drug dealer will result in an unmet demand for drugs at that locale, and an existing or new drug dealer will then appear, to fill the void. This new drug dealer may have been innocent of any crimes before this opportunity, or may have been guilty of less serious crimes, such as being a look-out for the previous drug dealer.

Restitution or repayment

Prisoners are forced to repay their "debt" to society. Unpaid or low pay work is common in many prisons, often to the benefit of the community. In some countries prisons operate as labour camps. Critics say that the repayment model gives government an economic incentive to send more people to prison. In corrupt or authoritarian regimes, such as the former Soviet Union under the control of Joseph Stalin, many citizens are sentenced to forced labour for minor breaches of the law, simply because the government requires the labour camps as a source of income. Community service is increasingly being used as an alternative to prison for petty criminals.

Reduction in immediate costs

Government and prison officials also have the goal of minimizing short-term costs.

In wealthy societies:

This calls for keeping prisoners placated by providing them with things like television and conjugal visits. Inexpensive measures like these prevent prison assaults and riots which in turn allow the number of guards to be minimized. Providing the quickest possible parole and/or release also reduces immediate costs to the prison system (although these may very well increase long term costs to the prison system and society due to recidivism). The ultimate way to reduce immediate costs is to eliminate prisons entirely and use fines, community service, and other sanctions (like the loss of a driver's license or the right to vote) instead. Executions at first would appear to limit costs, but, in most wealthy societies, the long appeals process for death sentences (and associated legal costs) make them quite expensive. Note that this goal may conflict with a number of goals for criminal justice systems.

In poor societies:

Poor societies, which lack the resources to imprison criminals for years, frequently use execution in place of imprisonment, for severe crimes. Less severe crimes, such as theft, might be dealt with by less severe physical means, such as amputation of the hands. When long term imprisonment is used in such societies, it may be a virtual death sentence, as the lack of food, sanitation, and medical care causes widespread disease and death, in such prisons.

Some of the goals of criminal justice are compatible with one another, while others are in conflict. In the history of prison reform, the harsh treatment, torture, and executions used for deterrence first came under fire as a violation of human rights. The salvation goal, and methods, were later attacked as violations of the individual's Freedom of Religion. This led to further reforms aimed principally at reform/correction of the individual, removal from society, and reduction of immediate costs. The perception that such reforms sometimes denied victims justice then led to further changes.

Examples

John Howard is now widely regarded as the founding father of prison reform, having travelled extensively visiting prisons across Europe in the 1770s and 1780s. Also, the great social reformer Jonas Hanway promoted "solitude in imprisonment, with proper profitable labour and a spare diet." Indeed, this became the popular model in England for many decades.

United Kingdom

Within Britain, prison reform was spearheaded by the Quakers, and in particular, Elizabeth Fry during the Victorian Age. Elizabeth Fry visited prisons and suggested basic human rights for prisoners, such as privacy and teaching prisoners a trade. Fry was particularly concerned with women's rights. Parliament, coming to realize that a significant portion of prisoners had come to commit crimes as a result of mental illness, passed the County Asylums Act (1808). This made it possible for Justice of the Peace in each county to build and run their own pauper asylums.

Whereas the practice of confining such lunatics and other insane persons as are chargeable to their respective parishes in Gaols, Houses of Correction, Poor Houses and Houses of Industry, is highly dangerous and inconvenient"

United States

In the United States, Dorothea Dix toured prisons in the U.S. and all over Europe looking at the conditions of the mentally handicapped. Her ideas led to a mushroom effect of asylums all over the United States in the mid-19th-century.

Johnny Cash advocated prison reform at his July 1972 meeting with United States President Richard Nixon.

Musician Johnny Cash performed and recorded at many prisons and fought for prison reform.

In the early 1900s Samuel June Barrow was a leader in prison reform. President Cleveland appointed him International Prison Commissioner for the U.S. in 1895, and in 1900 Barrows became Secretary of the Prison Association of New York and held that position until his death on April 21, 1909. A Unitarian pastor, Barrows used his influence as editor of the Unitarian Christian Register to speak at meetings of the National Conference of Charities and Correction, the National International Prison Congresses, and the Society for International Law. As the International Prison Commissioner for the U.S., he wrote several of today's most valuable documents of American penological literature, including "Children's Courts in the United States" and "The Criminal Insane in the United States and in Foreign Countries." As a House representative, Barrows was pivotal in the creation of the International Prison Congress and became its president in 1905. In his final role, as

Secretary of the Prison Association of New York, he dissolved the association's debt, began issuing annual reports, drafted and ensured passage of New York's first probation law, assisted in the implementation of a federal Parole Law, and promoted civil service for prison employees. Moreover, Barrows advocated improved prison structures and methods, traveling in 1907 around the world to bring back detailed plans of 36 of the best prisons in 14 different countries. In 1910 the National League of Volunteer Workers, nicknamed the "Barrows League" in his memory, formed in New York as a group dedicated to helping released prisoners and petitioning for better prison conditions.

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