Forum: Commision on Crime Prevention and Criminal Justice (CCPCJ)

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Introduction

Imprisonment is viewed as rehabilitation by some nations and a punishment for criminals by others, because of this, the manner in which prisoners serve sentences for their crimes varies drastically internationally. Many nations in the European Union have been changing their prison systems to be more rehabilitative. Other nations, such as the United States, China, Russia, and Iran, have maintained their punitive policies in different ways. Rehabilitation is seen as a way to avert recidivism through the prisoners' acclimation to society. Punishment is seen as a different way to avert recidivism through a great restriction of the prisoners' rights. The two different methods have been justified in various ways, but the polarization of prison systems internationally can lead to disorder and extreme violations of human rights. A more unified system in relation to standards can lead to more transparency and progress in curbing recidivism. The morals of the systems are not the only aspect that differentiates prisons. Financial factors are the cause of many of the issues prisons face. A lack of funds can deter prisons from funding certain programs or even providing their prisoners with basic sustenance. The United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules, have highlighted many of the current issues prisoners face. Even though this document states the rules and problems, it offers no solutions for them. If prison systems are to become more unified and the issues with their standards are to be solved, there must be action in addition to the consensus in ideas.

Definition of Key Terms

Punitive Policies:

Prison policies with the objective of inflicting punishment on the prisoners for their crimes. Examples of this include: solitary confinement, having the prisoners stay in cells for long periods of time, labor, and restricted amounts of food and water. They focus on making sure the prisoners suffer for their crimes, and tend to not offer extra programs such as vocational training.

Vocational Training

Education focused on specific careers. This is meant to help inexperienced people join the workforce.

Convicted criminals

Criminals who have completed serving the sentence that was given by the government, and have been released into society

Recidivism

When convicted criminals commit crimes again. It is usually used in the context of measuring the rate at which it happens. This helps in the evaluation of different prison systems since their efficiency can be determined based on how many of the convicted criminals continue to commit crimes.

Solitary Confinement

A form of imprisonment or punishment within the imprisonment where a prisoner is isolated in a cell and contact with other people is restricted or limited.

Probation

When a prisoner is released conditionally and supervised regularly to ensure lawfulness.

Open prison

Prisons where prisoners are allowed to roam with less supervision and restrictions. They

are often not confined in cells. These are meant for milder offenses.

Supermax Prison

Prisons that provided long-term seclusion and restriction of rights for prisoners with harsh sentences that pose a threat to society.

Misdemeanor

A minor offence that is usually punished with a short jail sentence and a fine.

Drug Crimes

Crimes that are related to either drug-use or illegally selling drugs. Many of the people convicted of this are often non-violent, which is why the severity of drug sentences is often disputed.

Prison Brutality

The physical or mental abuse and mistreatment of prisoners that is meant to be used as punishment. This is often illegal since it is an extreme measure that could violate the United Nations Convention Against Torture.

Black Jails

Extralegal detention centers mainly found in China that detain and incarcerate people without trial. Their existence is disputed, but, if real, they would violate most United Nations conventions and resolutions that focus on prisons and prisoner rights.

Prison Psychotherapy

Therapy provided to prisoners in order to allow them to overcome mental or psychological issues that might be responsible for their crimes.

Commissary

Basic stores in some prisons that allow prisoners to purchase commodities and necessities using money that they earn through labor or money provided by external sources such as family.

General Overview

Rehabilitative Imprisonment

A rehabilitative prison system works to facilitate the reintegration of prisoners into regular life. According to international law and the United Nations, imprisonment should not consist of solely the revocation of rights and liberties. The United Nations made a case for this system by saying that prisons should provide their inmates with the ability to socially integrate themselves in an effective way to prevent recidivism. This can occur through vocational training, education, open living and more. The vocational training is meant to coach prisoners and allows them to familiarize themselves and experience different jobs. There are also educational programs that are aiming to facilitate reintegration. These are meant to coach prisoners and allow them to integrate themselves. Some prisons are giving prisoners more freedom through open living. In this rehabilitative method, they are often not restricted to cells. Denmark has reportedly made strides in the transition to rehabilitative prisons, which, in effect, has lowered recidivism rates to 27%, while the United States, which has a more punitive system than Denmark, has had a stable recidivism rate of 40% since the 1990s. It is important to note that there is more than one factor that affects recidivism rates, which means that it can't be proven that rehabilitation decreases them. Although this change has been made, out of 640,000 prisoners in the European Union (EU), less than a quarter of them participate in such activities that promote rehabilitation. This brings up the question of the effectiveness of the programs themselves and of the implementation of them in prison, which is something that must be solved.

According to the United Nations Roadmap for Development of Prison-Based Rehabilitation Programs, there are four main reasons as to why this change is being made. The first reason is that prisoners are allowed to obtain new skills and passions through vocational training and education that will prevent them from committing crimes when released. It has also been stated that these systems will help keep order and security in prisons, especially through the use of incentives. Financial aid for prisoners through work programs is another possibility recommended in this UN document. There has been criticism of rehabilitation in prisons. This criticism comes from the fact that many believe that it gives the inmates too much freedom and they will therefore not completely understand that the crime they committed was morally wrong. This is the main controversy of the issue. Nations have varying viewpoints on this idea, and an extreme lack of agreement can lead to issues concerning the severity of prison sentences or even the human rights of prisoners. There has been some criticism of programs that shorten sentences for prisoners that show rehabilitation. This becomes a concern when people are incarcerated for violent crimes such as murder or rape. Others claim that rehabilitation does not work properly with shorter sentences. People and governments become concerned that vocational training and education is not enough to deter them from committing such crimes against people again. This is another reason why an international consensus on the issue will be better, since, if countries focus on the similar structure and development of prisons, the rehabilitation will be regulated to ensure the safety of citizens and prisoners. The economic impacts of this system and the financial restrictions of countries are also contributing factors in the lack of rehabilitation.

Punitive Imprisonment

Punitive imprisonment works to punish prisoners for their crimes. This differs from a rehabilitative system because, instead of the focus being on preventing the prisoner from committing the crime again, it is on punishing the criminal for their crime. This dissatisfaction in prison is meant to prevent people from going back to prison. This is currently the method adopted by most nations, but the severity of the punishment differs based on crime and nation. Some nations are also more inclined to follow this system because of the financial implications that come with a rehabilitative system. This system consists in the suppression of rights and freedom. It is used by most nations in varying degrees, such as the United States of America, China, Russia, and Brazil. The use of torture violates the Universal Declaration of Human Rights, among other conventions, but there have still been many accusations of its use in prisons, and it must be addressed. One of the punitive methods used is solitary confinement. In this method, prisoners are secluded in small cells for varying amounts of times. This system is praised for its effectiveness in controlling prisoners while in jail. An example in which this would be used would be during a prison-fight and/or riot. The people involved in the fight

would be put in solitary confinement, which would allow them to calm down. This would also prevent the other prisoners from getting into fights, helping to create order and authority inside the prison. Iran is notably known for its extreme use of solitary confinement, but this punishment is common internationally. Solitary confinement has been criticized due to the negative impact it has on prisoners psychologically. There have been multiple reported cases of prisoners getting paranoia, anxiety, and trauma from solitary confinement. Neuroscientists have claimed that this method increases the risk of suicide and of premature death by 26%. Authority and the fear of it is one of the main themes of punitive imprisonment. The prisoners learn to become fearful of the guards and then respect them. This respect is then meant to translate into real life when they are released. Punitive prisons also rely on revoking the privileges of prisoners. This could be through the restriction of food and water, not allowing prisoners to use commissary, or having inmates spend most of the day inside cells. Labor is another method found in punitive prisons. The state assigns laborious tasks to prisoners to ensure keep them occupied and maintain order. North Korea reportedly has citizens living under forced labor. India's penal code states that inmates with harsh sentences must do hard labor. Some nations compensate their prisoners for their labor, but many are only a couple cents per hour. This differs from the vocational training found in rehabilitative prisons. In the punitive system, the tasks are repetitive and similar to factory work. The prisoners do not often get a choice as to what they get to do and they get compensated poorly. Work by prisoners, in both rehabilitative and punitive systems, is something that has been criticized because it has been compared to slavery. This is due to the fact of the lack of choice that prisoners often have and the lack of compensation in many cases. Many punitive prisons allow prisoner recreation to a certain degree through gyms and sports.

There is both a lot of criticism and praise for this system, making it controversial. Many states choose to follow this system due to the direct structure and order that comes from it. Others believe that this system is ineffective and will simply increase recidivism rates since prisoners will not learn to be productive citizens once they are released. This system has also allegedly made it easier for brutality and torture to occur. It can also lead to violations of fundamental human rights that prisoners have, as seen in the United Nations Standard Minimum Rules for the Treatment of Prisoners. According to a

2018 report detailing global prison trends by the Thailand Institute of Justice, positive prisoner-staff relationships increase security and order in prisons. These relationships are something that is often lost in punitive systems. Some of the nations making the transition to rehabilitative prisons say that punitive systems often violate the rights of prisoners and do not work to deter prisoners from committing crimes again. On the other hand, the nations that continue to use a punitive system believe that, after committing the crime, the criminals need to get some of their rights revoked, and through strict imprisonment, they will regret the crime they committed. Punitive prisons also tend to have drastically lower costs than rehabilitative prisons since they are not required to fund all the additional rehabilitation programs. This is important considering the lack of resources many countries face, which results in less funding of prisons.

Imprisonment of minors

Imprisonment of minors is a topic that is viewed differently internationally. Some nations are lenient when sentencing minors, while others give them the same sentence as adults. Leniency in sentencing is done due to the perceived immaturity of teenagers and children. They are seen as being more successful in rehabilitation. These minors would be put in juvenile detention centers for short periods of time, be given community service, or even put in rehabilitation centers. The juvenile detention centers often offer education and healthcare programs that are meant to aid them. The difference between a regular prison and a juvenile detention center is the age of the prisoners and the leniency found. Other nations are not lenient because they believe that if the minors consciously committed the crimes, then they deserve the punishment. These minors would be tried as adults or given the same sentence as adults. Approximately 10,000 minors serve in adult prisons in the United States of America. Minors who are put in adult prisons face other dangers than the prison itself. The Equal Justice Initiative has mentioned how minors are five times more likely to be sexually assaulted in adult prisons than in juvenile detention centers. If consensus would arise for the punitive punishment of minors, then guidelines and programs would be needed to protect these minors from the excessive violation of their human rights. According to a 2016 report by the Human Rights Watch, "Many of these children—and adults who were convicted of crimes committed when they were children-have received excessive or disproportionate sentences that violate international law, which requires

that imprisonment of children be in 'conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.'" The variance in the regional sentencing can become dangerous and lead to the disorganization of prisons, which is why treating minors similarly internationally is beneficial. The controversy in this topic would be on whether minors should be tried as adults, and given similar sentences, or if they should be rehabilitated. Organization of these options is something that is not currently prioritized internationally.

Current common prison issues

As the different ways prisons are structured are addressed, it is also important to mention and work on solving issues that many prisons currently face.

Legal Representation

Access to quality legal representation is not offered to everyone in a timely manner, and this results in the incarceration of more people.

Overcrowding

Overcrowding is one of these. Prison Reform International stated that over 115 countries have a larger prison population than their capacity. They also mentioned how overcrowding is not caused by rising crime rates, but instead by lack of structure in criminal justice policy and prisons.

Healthcare

Healthcare access to criminals varies drastically by region. Many prisoners have access to both mental and physical healthcare, while others are provided with no healthcare at all and not enough water or food. This same concept also applies to special needs prisoners. Many of them do not receive the extra support that they sometimes need in order to live.

Prison care and corruption

Lack of inspection and monitoring is also a major issue in many prisons. This is sometimes caused by lack of monetary funds or fueled by corruption; it facilitates crime inside of prisons, which means that prisoners are put in positions that make it difficult for them to stop committing crimes.

Solving these issues in conjunction with the global organization of prison systems is critical to ensure equality in the treatment of prisoners.

Financial disparities in imprisonment

Some countries do not explicitly choose to have punitive prisons but do so due to financial limitations. Rehabilitative imprisonment can be more expensive due to the additional programs put in place to train the prisoners. This is also what mostly causes the aforementioned common prison issues. If more nations are going to transition into a more rehabilitative system, it is important that a more cost-effective way of integrating the programs is found. Nations underfund prisons because they tend to prioritize programs for regular citizens. While financial support for prisoners is necessary, it is important to remember that they committed crimes. This is a controversial topic that must be addressed because many believe that nations should not have to restrict regular programs in order to support prisoners. They believe that prisons should only be given money to maintain the prison, but additional programs might be too costly for prisoners to deserve. Many others believe that it is necessary to fund prisons to ensure that prisoners are able to advance mentally and stay safe. They believe that these additional programs will help prevent future crimes, which is beneficial to a nation. Other nations are able to fund their prisons but often do so disproportionately throughout their nation, which means that citizens in the economic lower class of the nation face harsher conditions in prisons. Finding methods to make all prisons more cost-effective, yet livable is another way to reduce both international and domestic carceral inequality.

Major Parties Involved and Their Views

United States

According to the Prison Policy Initiative, the United States prison population is approximately 2.3 million people. This is the largest reported prison population internationally. Since many of the aspects of prisons function at a state level, it is difficult to label the United States as solely rehabilitative or punitive. Since prison law is not defined on a federal level, rehabilitation is difficult to achieve, which is why many prisons continue being punitive. The US has been criticized for mistreatment of prisoners due to punishments such as solitary confinement. This nation is also known for its use of private, for-profit, prisons. Private companies receive stipends from the government for the prisons. Many of these companies will lower the costs of their prisons as much as possible in order to keep more of the stipend. This leads to the degradation of the quality of life of the prisoners. Since the prisoners committed crimes, it is controversial whether or not the reduction in quality is bad.

China

China is the nation with the second-largest prison population. It is not possible to entirely know what truly occurs in these prisons due to a lack of transparency. The nation has reportedly introduced psychotherapy into prisons as a form of emotional rehabilitation, but it has not been widespread. Chinese prisons have also been accused of using forced labor as a form of torture. A former American inmate accused them of beating prisoners if they refused to work, and stated that many were held there without trial. It is important to take into account that these accusations have been made, but not confirmed. China is also known for its use of extralegal detention centers, also known as black jails.

European Union

The nations of the European Union have been leaning towards rehabilitation in prisons. Some important nations are: Germany, Denmark, Sweden, and the Netherlands. All of these nations are advocates for rehabilitation and have changed their entire prison systems to be rehabilitative. They have implemented many of the programs, but, according to the UN, less than a quarter of the inmates participate, which means that rehabilitation occurs minimally.

India

In India, there are many prisons that use rehabilitation, specifically vocational education. According to the Model Prison Manual for the Superintendence and Management of Prisons in India, vocational training in Indian prisons should consist of

training, apprenticeship, progress reports, and tests. These are meant to allow inmates to be better accustomed to the workforce. The issue of overcrowding is caused by mass incarceration and the financial limitations of prisons. This deteriorates conditions for prisoners exponentially. Prisons often hold three times more than their maximum population.

Iran

Iran has a punitive prison system. Iran's prison conditions are known for being harsh. Prisons are overcrowded and unhygienic. Prisoners sleep on the floor and sometimes have to withstand extreme temperatures. Officially, no torture is performed in Iran's prisons, but according to Refworld, there have been reports of "forced confessions, prolonged solitary confinement, rape, physical and psychological torture, and mock executions. There were reports of systematic rape of women prisoners as well as coerced virginity testing of female prisoners."

Central and South America

Many Central and South American prisons are overcrowded and offer harsh conditions. This is not always necessarily done as a form of punishment, but caused by a lack of funds. Not enough funds are allocated to sustain prisoners in a healthy manner. This leads to the disorganization of prisons, brutal conditions, and in some cases, it has allowed criminal organizations to take over prisons. This means that many of the prisons are punitive, but not always by choice. Brazil, Guatemala, Nicaragua, and Argentina are some of the biggest examples of overcrowding, underfunding, and corruption in prisons in Central and South America.

Timeline of Events

Date	Description of event
1779	The Penitentiary Act was passed in the United Kingdom, which included
	the idea of rehabilitation in prisons.
1817	Elizabeth Fry becomes a well-known activist for prison reform and the

humane treatment of prisoners in the United Kingdom. She formed the Association for the Improvement of the Female Prisoners in Newgate.

- 1935-1945 This time period was known as the punitive era. Most prisons believed the punishment of prisoners was their main purpose. Rehabilitation was almost non-existent.
- 1841John Augustus becomes the first legally recognized probation officer. He
was responsible for accommodating care and guiding people after they
were released from prison.
- 1948The United Kingdom Criminal Justice Act is passed. This act is considered
to be the base guidelines used in modern prison acts.
- The United States' "War on drugs" commences, which leads to the1970 -imprisonment of more people who commit drug crimes, often
non-violent. They usually face large fines and long sentences.
- 1955 The Standard Minimum Rules for the Treatment of Prisoners is adopted.
- 14 December 1990 The United Nations Rules for the Protection of Juveniles Deprived of their Liberty is adopted.
- 2005 There are officially over 40 supermax prisons in the USA. These are prisons that focus heavily on isolation and the restriction of rights. They are meant for extremely dangerous criminals.
- June 2013 The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems is released.
- 17 December 2015 The United Nations Minimum Rules for the Treatment of Prisoners is revised.

UN involvement, Relevant Resolutions, Treaties and Events

The United Nations has created multiple resolutions on the topic of imprisonment and rights. The resolutions state the minimum rights that prisoners should receive while in prison. Although some resolutions have briefly mentioned education or vocational training they have not yet created a resolution calling for the enforcement of either rehabilitation or punishment in prison. Resolutions on imprisonment have been more recently adopted. They serve as a measure to ensure the safety of prisoners internationally.

- The United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules, was adopted in December 2015 as A/RES/70/175. It was originally adopted in 2009, but revised for 5 years in order to fortify it. This resolution was meant to commemorate Nelson Mandela through the implementation of the basic rights that should be given to prisoners. This resolution recognizes the socioeconomic inability for some nations to completely follow it. It also covers the regular management of prisons. It was also created as a way to make Nelson Mandela day also about awareness on the mistreatment of prisoners.
- The United Nations Rules for the Protection of Juveniles Deprived of their Liberty was adopted by resolution 45/113 on14 December 1990. The purpose of this resolution was to ensure that imprisoned minors were getting the same rights as adults. This resolution mentions vocational training and education. It does not promote giving minors more rights or privileges than adults.
- The Istanbul Protocol, also known as the Manual on the Effective Investigation and documentation of Torture and Other Cruel, Inhuman or Degrading Treatment of prisoners, was adopted in 2004. This detailed manual states multiple ways to prevent torture, but it mostly focuses on psychological and physical examinations to confirm if torture was used on a prisoner.

Evaluation of Previous Attempts to Resolve the Issue

The United Nations has been actively involved recently in order to solve this issue. They have released multiple guidelines and adopted various resolutions. Although these documents released are necessary to organize international equality in prison systems, they are often too basic. They call for the protection of the rights that prisoners have, but they do not offer ways to protect them or ensure that prisons are protecting them. They also do not focus on the lack of transparency in prison systems, which is an important issue. The lack of specificity is not the problem with the previous attempts to solve the issue. Another one is a lack of action. Awareness of the guidelines and resolutions are the main way in which the United Nations tries to solve this, without calling for action to ensure equality in prison systems.

Domestic resolutions have been effective at times, but many nations find themselves to be too financially restricted to solve the issue. This restriction leads to disorganization and corruption. Internationally, prison populations are exponentially increasing, which shows that there are flaws in the way prisoners are currently dealt with. A great number of prisoners can lead to overcrowding and in some cases, the obstruction of fair trials. These are some of the aspects that both domestic and international resolutions are not currently targeting.

Possible Solutions

There are multiple ways to approach this issue, with some being more effective than others. Legislation and action are two of the most important factors. This is something addressed in previous resolutions but remains an issue because of a lack of reports and transparency. A strategy must be found to get countries to make their prisons more transparent. The point of this issue is to create a resolution that all nations agree with enough to follow, but this resolution should allow countries to collaborate and combine the aspects of each system, which they find to be beneficial. Awareness to the public on the treatment of prisoners is also important, and so is the prevention of crime. The financial limitations of countries is something that should be addressed, but can not be solved through legislation. Delegates must analyze the benefits and drawbacks of each of the prison systems when it comes to morality, financial implications, and efficiency. When solving this specific sub-issue delegates must take into consideration the quality of more cost-effective measures.

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Appendix

- I. Online Database that details the prison information of most nations. http://www.prisonstudies.org/world-prison-brief-data
- II. United Nations site showing all four versions of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

https://www.un.org/en/events/mandeladay/mandela_rules.shtml

III. Report showing 2018 prison trends

https://www.penalreform.org/resource/global-prison-trends-2018/