

Research report

Forum: Economic and Social Council
Issue: Establishing Regulations For The Treatment Of
Convicts
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Table of Contents

Introduction	3
Definitions of Key Terms	6
Background Information	7
General Overview	12
Major Countries & Parties Involved	13
Amnesty International	13
Central Intelligence Agency (CIA)	13
Eritrea	13
Norway	14
Penal Reform International	14
Reform Alliance	14
The Netherlands	15
The United States of America	15
Timeline of Key Events	15
Previous attempts to solve the issue	17
	18
Possible solutions	20
Bibliography	21
Appendices & Further Reading	26

Introduction

There has long since been a debate between legislative workers¹ and other members of society on whether the modern treatment of convicts and criminals is appropriate, or even humane. These debates investigate and expand on the different psychological and physical dangers of prison life. They include diseases due to lack of hygiene, oftentimes caused by unsanitary conditions and unhygienic prison facilities. Other elements are physical dangers and threats posed by other inmates, which often tie in with the psychological effects of solitary confinement.

Important factors which play into the dangers of confinement are its psychological effects as a lack of social interaction can impair a person's social behaviour. These pave the path toward psychological disorders and can make a convict more dangerous when they are released. An example is that, when exposed to physical abuse by other inmates or officials, it can severely distort a convict's perception of "normality." When convicts are sentenced to prison (for more than 12 months), the human mind starts to lose sight of societal norms that were taught growing up, such as the unacceptance of public violence.

Other arguments and issues with the current conditions of convicts are the treatment of the inmates by correctional officers. All the incidents brought to light during the #BlackLivesMatter protests are prime examples of such movements and problems. These debates have driven and sparked investigations questioning ethics when it comes to the maltreatment of convicts. A large factor in this debate has to do with demographic prejudices².

The nature of different inmates is also another reason and factor regarding the safety standards in prison. Understanding the different degrees of crime and their corresponding sentences is useful if deciding on divisions of inmates based on violence patterns or revising the criminal severity of charges. Furthermore, current regulations and facilities should be researched, along with more recent efforts to improve the treatment of convicts. Another thing to bear in mind is the prospectus and goal of the reform, whether it should be stricter and obedience-based or more based on rehabilitation.

¹ This report will be focusing on Dutch and American law & circumstances. Other countries can be mentioned

² Based off race, gender, age, and other visual impressions

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It is important to note that imprisonment only infringes on the right to liberty. No other human rightsⁱⁱⁱ may be restricted or denied. Prisons need to ensure that prisoners are not being denied their fundamental rights, something which has been lost sight of. It is also important to note that different countries have different laws and regulations regarding the treatment of convicts and inmates in prison facilities. When creating new regulations, it is crucial to bear in mind these differences and take into account the treatment of different convicts with different degrees of criminal charges.

Definitions of Key Terms

Actus Reus^{iv}

Sometimes called the "guilty act", it is the physical action or lack thereof that is seen as unlawful by authorities. It is the act with which criminals/convicts are charged when sentenced in court after either pleading guilty or being proven so by the court. A suspect cannot be charged without a proven actus reus supported by evidence and facts.

Arrest

Being taken into custody (not officially charged) by authorities due to suspect, known, or witnessed criminal activity or being an accomplice to criminal activities.

Convicts

Those who have been officially found guilty of a crime or who have endorsed criminal activity. One cannot be charged or convicted of a crime unless they have pleaded guilty in court or proven guilty in a trial with a finalised verdict.

Hepatitis-C

An infection of the liver caused by a virus of the same name. Hepatitis is readily transmitted through exposure to bodily fluids from unsterilised needles or through unprotected sexual practices (uncommon)—both of which make prisons a particularly high-risk environment. Estimates give the proportion of inmates infected with the Hepatitis-C virus in the United States of America to be as high as 40%.

HIV/AIDS

AIDS (Acquired Immuno-Deficiency Syndrome) is caused by the Human Immunodeficiency Virus (HIV). When left untreated, AIDS interferes with the body's ability to combat other diseases. As a result, opportunistic infections, caused by relatively common pathogens such as the flu, become much more lethal. Like Hepatitis-C, AIDS is transmitted through bodily fluids. As of 2019, about 3% of prisoners around the world are infected with HIV.

Incarceration

According to the Bureau of Justice Statisticsⁱ, the "number of inmates under the jurisdiction of state or federal prisons or held in local jails" In other words, incarceration is the custodial state where one is held in state or federal prison due to a subsequent conviction of a crime resulting in a prison or jail sentence.

Infringement of Rights

Denial or partial delivery of human rights from the Universal Declaration of Human Rights. They are usually demeaning and depressing. Denial of rights is deemed a crime against humanity, and those who commit them can face charges in court. Examples are rape of any kind, denial of healthcare, severe bodily injury due to discrimination, or any other non-viable reason.

Mens Rea

Mens rea is the legal term that describes the motive to commit a crime. It is sometimes referred to as “the guilty mind”. Without a clear mens rea with supporting evidence and facts, it is difficult to prove a suspect guilty of a crime. Mens rea and actus reus go hand in hand when in a courtroom.

Petty Crime

A petty crime is a crime with no serious consequences to oneself or to another person. Examples are theft and minor shoplifting, loitering, or trespassing on private property³.

Prison vs. Jail

Prison generally refers to a long sentence, usually regarded as 12 months or longer, whilst jail refers to all sentences shorter than that. Being held in jail does not mean that someone is necessarily guilty of a crime, but rather that they are detained in confinement whilst awaiting either a trial or verdict.

Prison reformⁱⁱ

A specific movement towards prisons and criminal justice being rehabilitative rather than punitive. This is in the hope that the current statistics of 2/3 re-arrests after being released and a 50% rate of reincarceration will decrease as inmates will have received professional therapy whilst serving their sentence.

Reform

A movement or call to action which aims to change a certain system, usually legislative, can also be used to refer to a programme or facility which seeks to provide correctional facilities to psychiatric patients or (usually) juvenile delinquents.

Rehabilitation

Rehabilitation is an umbrella term for any programme or service designed to help people with suspected or diagnosed psychological or physical impairment or trauma. Medical and other qualified professionals help those impaired to recover as quickly as possible. Rehabilitation can come in many different forms, such as psychotherapy or physiotherapy.

³ Trespassing on private property is classed as a petty crime if the trespassing had no ill intent and was not on property which would have consequences, eg. a house or private land. If the trespasser has trespassed on property such as a research centre or other high-profile institutions or centres the consequences can be higher.

Verdict

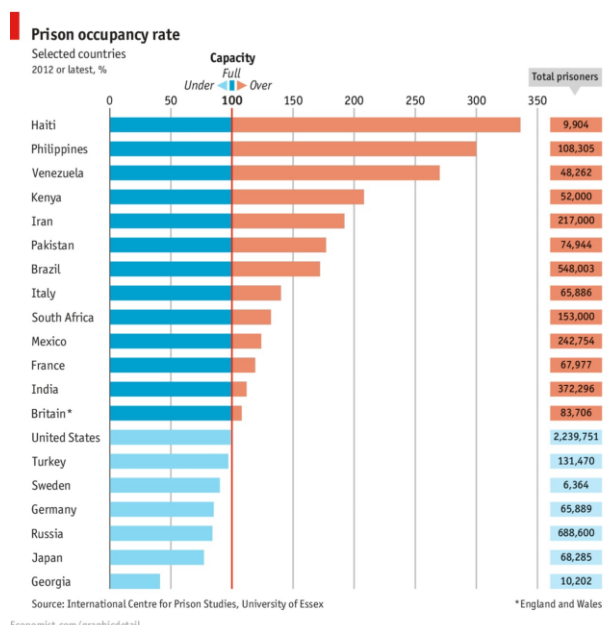
An official finding made by the judge regarding the actus reus and mens rea of the suspect in legal contexts. A verdict is the formal finding of fact reached by a jury on issues or questions that were put to the jury by the judge in a legal proceeding. A finding is a term used to describe the judge's judgement near the conclusion of a bench trial. It serves as a synonym for "conclusion" in other contexts.

Background Information

Already, since mediaeval times, we have developed and moved forward in the treatment of lawbreakers. Criminals would be publicly shamed and punished for even petty crimes such as stealing. Some punishments included forced nudity, amputation of limbs, and the possibility for the public to throw fruits, vegetables, and stones at convicts who were tied to columns. Sometimes, townspeople were even encouraged to spit on these convicts. The torture and execution methods for suspected violations of the law were inhumane and dehumanising. Prisoners in confinement then, as today, are at times treated like vermin, and their punishment is sometimes overdone once officially sentenced.

Public shaming was an abandoned practice around the 1800s. In recent decades, there has been a call to bring back shame punishment, especially in the US. Some examples of this are punishments where the criminal must stand in a public space such as a town square with a board or sign stating their criminal charge for a set number of days. It's a very controversial proposal, and many people oppose it. In the late 18th century, the treatment of prisoners started to capture the interest of the public, and so public shame or humiliation was scrapped as a sentence.

Today, we have improved the conditions for convicts, but there are still reports of maltreatment of inmates and sometimes accusations of humanitarian crimes. These crimes are not always direct, but the quality and circumstances under which inmates are kept can sometimes be classed as an infringement on rights. In prisons, sexually transmitted infections (STIs) such as Acquired Immunodeficiency Syndrome (AIDS) and Hepatitis-C are common. These transmissions are, in part, due to unprotected sex, as prison rape is a regular occurrence



and an example of a human rights violation. Other ways in which AIDS and HIV are transmitted are aided by the extensive use of illicit substances, especially when sharing unsterilised needles and syringes. Needles also transmit these diseases through prison tattooing, where needles and ink are rarely cleaned between uses. All of these problems are even more abundant in the face of prison overcrowding. Prison overcrowding is when there is more demand for prison than there are facilities available. In some cases, prison overcrowding has become so bad that the jurisdiction acknowledges it as a cruel punishment, which in America is a violation of the 8th and 14th amendments.

“Prison Occupancy Rate”, *The Economist*

General Overview

Prison Reform

The Prison Reform movement has existed for a long time, although it has been in the limelight recently. The system that this reform hopes to achieve entails prisoners being "rehabilitated" rather than "punished." Many prisons already have fitness facilities and communal areas where inmates can socialise with one another. This might be a hazard to some inmates when others are agitated since many prisoners are prone to physical violence.

The reform aims to improve living standards for convicts and looks to send prisoners to correctional facilities rather than confined spaces. The fundamental aim of sentencing convicts to prison is to prevent them from partaking in illegal activities again and thereby make the community safer. Confining prisoners does little to ensure that they refrain from committing crimes again. It serves more as an agitational agent, and when inmates finish their sentence, $\frac{2}{3}$ are re-arrested for another reported crime, and 50% are reincarcerated. These numbers prove that prisons are a short-term solution to criminal activity, and a reform of prisons can be structured in a way to prevent reincarceration and recidivism.

The Origins And Past Outcomes Of The Prison Reform Movement

John Howard was a well-known early prison reformer. Howard toured numerous prisons throughout Europe and was astounded to discover the extent of the violations of some of the rights which he believed to be fundamentally human. He was also shocked to learn that many acquitted prisoners were still imprisoned because they couldn't pay the prison officer. Several reforms to the penal system were proposed by Howard, including the stipulation that all personnel be well trained and paid for by the government. He also proposed a suggestion that inmates be held in separate areas; a mandate that prisons be inspected; and the provision of balanced nutrition and an adequate standard of living conditions for all inmates. As a result, the Penitentiary Act was passed in 1779, resulting in the implementation of solitary confinement, a labour regime, and other reforms.

More About the Penitentiary Act

The Penitentiary Act was passed in 1779 by the House of Commons. It was a two-part act, and was first appealed by John Howard. It called for more acceptable living conditions for inmates whilst still being strict and staying very authoritarian towards them. The act proposed individual cells and spaces for each prisoner, along with better nutrition, better and more accessible healthcare, exercise facilities, and religious institutions. Howard's main theory was that prisons should be correctional and rehabilitative rather than just a punishment. Prisoners and inmates should be taught to not commit the same crimes again. In the case that inmates have psychological complications, they should be entitled to psychologists. The outcome that Howard desired was for the inmates to be released from prison as members of society who have a good understanding of societal norms and will not commit crimes in the future.

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These outcomes that would have been achieved through the Penitentiary Act would have transformed prisons into rehabilitation centres rather than confinement centres.

Howard's philosophy was theoretically a good one, but was not realistic. Since a high percentile of the prisoners were over 25 years old, their brains had already finished developing⁴, and a fundamental change in their way of thinking would have been a long shot. Even after the Penitentiary Act was passed and ratified, the reincarceration rates did not drop by any significant amount. Although a lot of the ideas about creating better conditions in prisons have been carried out by different jurisdictions and countries, the assumption that these methods would prevent and decrease recidivism and reincarceration rates has been nullified.

Another important player in jail reform was Dorothea Dix. She spent several years visiting numerous prisons in the United States and found the living circumstances to be deplorable: men, women, and children were all incarcerated indiscriminately; a sufficient health system was not implemented or accessible to the inmates; a violation of human rights; and the mentally ill were mistreated. Concerning these findings, Dix campaigned for change and was successful in making significant changes: healthcare facilities and psychiatric hospitals for the sick and mentally ill were built; different jurisdictions established a separate judicial system for minors, and debt holders were no longer imprisoned.

Charging a Convict and Treatment Before Incarceration

Convict vs. Criminal

It is important to understand the difference between a convict and a criminal. A criminal is someone who has necessarily committed a crime, whereas a convict is someone who has been declared guilty of such. A convict can, at times, be someone who is entirely innocent and has been falsely convicted of a crime. These people still need to serve their sentences in prison or jail. On the other hand, criminals are not always sentenced or even arrested. Therefore, the treatment of convicts must be mediated and specifically refers to the people incarcerated in jails and prisons.

Convicts are usually arrested and detained, although, in the case of minors⁵, they can often be bailed out at the police station, which is their charge. Minors with petty crimes will usually get their charge on a police record, but will not have to serve time. Judges and courts try to avoid sentencing children to juvenile detention centres. Juveniles, when taken out of their environment, can develop mental disorders and can interfere with their development.

⁴ The human brain stops developing around 25. This is also the age where a person's metabolism is at its highest and that the human body is at its peak. Since the brain has fully developed it becomes harder to change a person, especially when it comes to criminal behaviours.

⁵ Minors who commit crimes usually commit smaller and petty crimes, therefore a bail is sufficient.

Mens Rea & Actus Reus

When charged with a crime, there must be two elements with the evidence presented and affirmed in court. The convict needs evidence of the criminal act (actus reus) and a viable reason for the crime (mens rea). Without *both* elements, it becomes difficult to charge a convict. This is because, without a viable reason, there would be no motive to commit a crime. Without any evidence of the actual crime being committed by the convict, the court will often acquit a convict due to a lack of evidence. It is more likely that a convict will be charged when there is a clear actus reus and a lack of mens rea than the other way round—clear mens rea without any actus reus. Actus reus comes in two main forms: eyewitnesses of the suspect committing the crime, or a wide range of forensic evidence that points to a specific person. Eyewitnesses will often be called into the courtroom to testify about the crime.

Inequalities and Unfair Treatment of Those Not (yet) Charged

Many times, a convict in custody who is either awaiting a trial or a verdict will be treated just like other people who have been formally charged. These people are placed in 'holding cells', which range in design. Sometimes they are communal—men, women, children, and the mentally or physically impaired. Sometimes they are put in regular cells. This usually varies depending on the severity of their charges. Accusations of crimes such as assault, burglary, murder to any degree, manslaughter, or rape are the most severe crimes, and those charged with them are put in a secure cell. Smaller crimes like theft, repeated driving offences, or the unauthorised concealment of firearms⁶ will be held in cells with fewer restrictions. These conditions are rarely of any higher quality than those of inmates.

Degrees of Crime

Each degree of crime results in a corresponding severity of the sentence. Oftentimes, the nature of criminals can affect the condition of a prison, especially when it comes to the interaction between inmates. Often, minor criminals are picked on by major criminals. The severity of this is usually a prison beat-up, which is broken up by prison officials only a handful of times. Second only to infections, diseases, and viruses, violent disagreements between inmates are one of the biggest threats and dangers in a prison facility. Many times, criminals charged with felonies have little regard for the prospect of a lengthened sentence or appearance before court for another time, as their sentences are already significantly long, sometimes even life. Current regulations, which aim to improve the living conditions of convicts, segregate different criminals by the severity of their crimes.

Many times, the more violent criminals are also more prone to drug abuse in prison, which is another sign that the current quality of prison officers should be improved. Drug abuse is a common cause of HIV/AIDS. Furthermore, drug abuse alters an inmate's state of mind and can impair their judgement, which can lead to irrational decisions like aggravating other inmates

⁶ Mainly only an issue in the US

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or officers. This loops back into Howard's theory about prisons needing to be correctional rather than punitive, where drug rehab and psychologists are easily accessible and available to inmates who require them. It has also been noted that felony criminals who commit violent crimes are more prone to continue those behavioural patterns when behind bars.

*Misdemeanour vs. Felony*⁷

This pair is sometimes referred to as minor and major crimes. Misdemeanours include petty crimes and are usually graded from A-B or 1-3, where A or 1 is the most serious. Misdemeanours usually result in high fines or jail time. Crimes which are classed as misdemeanours are neglect of a pet, or fraudulent alteration of official information, such as possession of a fake ID. Other examples include allowing a minor to be present at scenes where illicit or dangerous activities take place, e.g., an exchange of firearms or a drug deal. Convicts charged with these crimes are given a decent amount of freedom whilst still in confinement, and are statistically shown to be more friendly with other inmates. Many convicts with minor offences rarely have delinquent tendencies.

Felonies are major crimes for which convicts can face up to life in prison, and in some countries or jurisdictions, even the death penalty. Felonies have a lengthier list of classes, usually from A-E or 1-5. Some jurisdictions also have a class "I". Felony charges have no subcategories, and so felony crimes rarely have a set sentence. Unlike misdemeanours, sentences for felonies vary from case to case. Felonies include all degrees of murder or manslaughter; burglary; assault; use or unauthorised possession of an assault weapon; and any kind of sexual offence⁸. Prisoners with these charges are usually deemed as dangerous to other inmates and can pose a threat to other convicts. They have violent tendencies and are often the cause of prison violence and fighting.

Degrees of Murder, Manslaughter, and Rape

Murder, manslaughter, and rape are all felonies and are generally classed as the highest level of criminal activity. Following this are inciting large amounts of violence, possessing or distributing large amounts of drugs, distributing illicit substances to minors, prostitution, and so on. Murder, manslaughter, and rape are classified into 3 degrees: 1st, 2nd, and 3rd, with the 1st being the most severe. The difference between murder and manslaughter is that murder is committed with the intention of killing another person, whereas in manslaughter, death is a result of another crime such as burglary, rape, or any other felony. The different degrees of each pertain to the specifics of each crime.

A first-degree murder is defined as the intentional and premeditated killing of any human being. There are 3 elements to a first-degree murder: motive, also known as mens rea, planning, and the intention of murder (partly actus rea). Examples are

⁷ Classes based off the US

⁸ Bar sexual exploitation, which is a misdemeanour

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shootings, stabbings, and deliberate causes of lethal accidents, e.g., plane crashes. Many of these are the result of gang or terrorist affiliation. A second-degree murder is similar to a first-degree murder but lacks the planning and forethought, although the intent to kill is still present. Third degree murder is also classed as manslaughter.

Manslaughter is classified into three types: voluntary, involuntary, and vehicular. Voluntary manslaughter occurs when someone kills another person without intending to do so. Killing on the spur of the moment is an example of voluntary manslaughter. The intention was to kill or injure another person, but the action was not planned. The provocation must be such that a reasonable person acting in similar circumstances would do the same thing. The maximum penalty for voluntary manslaughter is 11 years in prison. Involuntary manslaughter occurs when someone is killed as a result of someone else's willful disregard for life. Involuntary manslaughter occurs when someone kills someone else without intending to do so. The maximum prison term for involuntary manslaughter is four years. Vehicular manslaughter occurs when a person dies in a car accident as a result of another driver's gross negligence or even simple negligence.

Similarly to murder, the different types of rape have to do with the intent and prior planning of the crime. The sentences for those crimes vary from case to case but the average sentence is 1–10 years.

Psychological Effects of Confinement

When confined, it can have serious psychological implications for an inmate. Convicts can lose track of societal norms as prisons are full of criminals who have broken the law and sometimes lack empathy. This can create a distorted sense of reality. Prison norms are starkly contrasted to everyday behaviour. The regularly violent incidents, which are oftentimes underplayed in severity, can impact a released inmate's view of the world. The vile nature of modern prisons can shape inmates into believing that vulgar language, violent solutions to disagreements, and lack of hygiene are normal and acceptable. There are several reports of released convicts behaving in unacceptable manners in public spaces—not because they want to create trouble, but because they have come to believe that it is normal. Events like these can influence the probability of reincarceration due to violent crimes or inappropriate behaviour in public.

Studies also show confinement can agitate inmates and incite them to be more violent. Prisons and inmates are often unhealthy environments for one another, and they can encourage one another to engage in destructive activities. Prisons can also make inmates incredibly lonely and can alter some functions of the brain. Oftentimes, psychological effects are just as debilitating as physical threats. Prison culture gets carried on by inmates, and so violent outbursts and fights are deemed regular occurrences.

Physiological Effects of Confinement

There are two main physical dangers of being imprisoned with today's prison standards: jail fights and diseases. The violent aspects of confinement tie in closely with the psychological

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effects. Hygienic factors are another big player, because of the high rate of unprotected sex between inmates, which is not always consensual. Aside from HIV and AIDS, approximately 40–45% of prison inmates had chronic conditions, and 14% suffered from STDs that weren't HIV or AIDS, such as hepatitis, hepatitis-B, hepatitis-C, or tuberculosis. These rates were reported to be higher than the STD and chronic condition rates of the general population, where chronic conditions are estimated to affect 22-26% of the population. Higher rates of diabetes, asthma, and high blood pressure or hypertension in jails and prisons are also another health concern.

In addition to this, healthcare in jails and prisons is not widely available. Sometimes it can take months before a medical professional visits the facility, and even then, they are oftentimes overwhelmed with the number of cases of STDs and other diseases and chronic conditions that they have to treat. There are also cases of self-mutilation in prisons, which is both a physical and a psychological threat.

Major Countries & Parties Involved

Amnesty International^v

Amnesty International is an organisation that specialises in human rights and the implementation of the Universal Declaration of Human Rights. They publish articles about current affairs where human rights are being questioned. They have been very active in campaigning for the rights of convicts in prisons and have proposed solutions which are yet to be discussed. Amnesty International could be and is a key player when it comes to the reform of prisons and establishing more regulations on the treatment of convicts.

Central Intelligence Agency (CIA)

In a report released by the CIA at the end of 2014, atrocities committed against suspects connected to Al-Qaeda after the 9/11 attacks on the world trade centres in New York City's downtown Manhattan were described. The so-called enhanced interrogation techniques were applied by the United States, in conjunction with 54 other countries worldwide, in secret foreign prisons during a search for Al Qaeda. Some of the survivors have created drawings depicting their experiences during the ten-year mission. Some show the cramped boxes where prisoners were kept, while others show prisoners' faces being slammed against walls. The interrogation program was approved by President George W. Bush's administration, and had serious consequences when it came to speculations concerning the treatment of convicts.

Eritrea

According to the Human Rights Watch World Report 2010 on Eritrea, human rights conditions there is among the worst in the world, particularly in terms of press freedom. The right to freedom of expression and speech, arbitrary detention and enforced disappearances, the right

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to health, forced labour, freedom of movement, as well as the rights of refugees and asylum seekers, are among the many human rights violations that the citizens of Eritrea have experienced. Most of these offences are related to transgressions of these rights. Some of the abuses mentioned above are widespread, particularly in jails and detention facilities. The majority of prisoners are held in overcrowded prisons and detention centres in Eritrea, where living conditions are typically unhygienic and dangerous. Food or hygiene products like soap, which directly violate the right to health, are other examples.

Norway

Norway has the world's lowest crime and incarceration rates. The Halden Prison in Southeast Norway has been titled "the world's most humane prison" as the living standards there are better than in any other prison. Cells were well-lit and separated, and most of them had their own bathroom and sanitary facilities. Prison there is based on correction and a recognition of the ill-intended deeds committed, rather than the dehumanisation and stripping of dignity which many other prisons around the world centralise around. Their incarceration, reincarceration, and recidivism rates are the lowest in the world, and the reasons for that can all be traced back to the principle that prisons should be correctional and rehabilitative rather than punitive.

Penal Reform International^{vi}

Penal Reform International (PRI) is an international non-governmental organisation (NGO) that works to advance criminal justice systems that uphold everyone's human rights and cause no harm. They strive to protect the rights of underprivileged individuals and ensure that criminal justice systems are free from discrimination. The PRI puts into action beneficial human rights initiatives and supports reforms that increase the effectiveness and fairness of the criminal justice system. Because of the way it works to strengthen the foundations of the rule of law and good governance, Penal Reform International, which was founded in 1989, is more significant than ever and has a crucial role to play in the renewal of human rights throughout the world. Involvement in advocacy and policy-based work accounts for a sizeable portion of their work, which frequently yields quantifiable but ill-defined outcomes (like "raised awareness," for instance). Reforming the criminal justice system frequently proceeds slowly. For example, in order for institutionally achieved results, changes to laws and policies, and the lives of beneficiaries, suspects, defendants, prisoners, and ex-prisoners to change over time, probably longer than the typical project time frame of two to three years, these factors must be taken into account.

Reform Alliance

Probation and parole are being transformed by the Reform Alliance by altering laws, procedures, and cultural norms to establish practical routes to employment and well-being. They are working to help people exit the legal system and find stability. Their goal is to help those who are oppressed by a harsh legal system that shows little consideration for their needs as human beings or as people.

The Netherlands

The Netherlands used to have one of the highest incarceration rates in Western Europe, but that changed as prisons became more expensive and inefficient at deterring reoffending. As a result, officials looked at alternatives to incarceration. Inmates in Dordrecht, for example, are allowed to wander freely in restricted areas and are given a key to their own cell. Inmates are also given clothing closets, televisions, and their own personal bathrooms in order to prepare them for life outside of jail.

Furthermore, because the Dutch correctional system believes it is crucial to keep offenders connected to their communities, prisoners maintain their right to vote, and many are allowed to spend free time at home with their families, thus cutting recidivism. Since the 1980s, the Dutch government has favoured fines over imprisonment, as evidenced by the fact that fewer than one in ten convicted criminals is sentenced to jail, and 90% of all offences have a fine as one of the available adjudicatory alternatives.

The United States of America

The USA is notorious for incidents regarding maltreatment of inmates in jails, especially when prison officers are involved. The Black Lives Matter movement was particularly important as it brought to light the injustices that are encountered by inmates in prisons and convicts during arrest. #BLM focused on racial injustices, but the concept is the same and just as applicable wherever there is an imbalance in power. Not only when it comes to officers and inmates, but this also applies to the power play between inmates.

In the last 40 years, the prison population in the United States has grown by 700%. Despite this, the national recidivism rate is still high at 50%, meaning that half of all incarcerated offenders will return to prison within three years of their initial release. With approximately 70% of convicted criminals being sent to prison, the prison system in the United States is primarily concerned with punishment and immobilising offenders.

Timeline of Key Events^{vi}

3,000 BC First evidence of the concept of prison⁹

1,000 BC Evidence of prisons used as a punishment in Egypt and Mesopotamia

500 BC-1,000 AD The Greeks, Romans, Egyptians, Mayans, Incas, Chinese, etc. used underground spaces with small cells as prisons. Prisoners would often be chained

⁹ In the 3rd millennium BC, prisons weren't used as a sentence or punishment, but more as a temporary detaining facility where prisoners would be awaiting either execution or being sold as slaves

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to the wall or have their feet tied together

- 0 AD-1,100 AD Most prison systems around the world were extremely harsh, with prisoners frequently starving to death due to a lack of food. There would be no bathing or sanitary facilities for the prisoners
- 1166 AD Henry II (England) orders the first construction of a prison which resembles the ones in modern day along with a draft for the first judicial system with jury
- 1215 King John (England) signs and thereby passes and ratifies the Magna Carta, the first recorded document in history to state that no man should be imprisoned without a fair trial
- 16th century to 18th century Due to urbanisation and significant advancements in the industrial sector, prison overcrowding rises, and so newer forms of punishment are implemented
- 1779 The Penitentiary Act was passed in the English House of Commons
- Late 1700s to mid 1900s France uses colonies for prisoners as penal colonies; prison islands
- 1847 Michigan is the first US state to abolish the death penalty for all charges except for treason
- 1878 A prisons act was put in place in the UK, which abolished the ruthless prisons and conditions there
- 1917 The death penalty has been abolished or severely restricted in nine US states

1922 Solitary confinement is abolished as a sentence in the UK

1939-1945 Under Nazi control, prison camps, detention camps, and concentration camps were set up and highly populated. Many camps around the world were similarly set up with the express intention of exterminating whole races. Law-breakers and criminals were often sent there too

10 December 1948 The Universal Declaration of Human Rights was passed

1950-1960 Prisoners movement began

1966 A record low of 42% of the (US) population in

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favour of the death penalty

17 December 1979	A Code of Conduct for Law Enforcement Officials is declared in order to shorten the gap in power between prison officials and inmates passed
9 December 1988	The Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment appealed
10 December 1988	The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment appealed
14 December 1990	Basic Principles for the Treatment of Prisoners appealed
19-21 September 1996	Kampala Declaration on Prison Condition in Africa appealed
27 February 1999	The Arusha Declaration on Good Prison Practise appealed
21 December 2010	UN rules for the Treatment of Women Prisoner and Non-custodial Measures for Women Offenders proposed
November 2016	A White Paper On Prison Safety And Reform was published by the 2015-17 Conservative government. It made recommendations to address rising levels of violence and self-harm in prisons, as well as persistently high rates of reoffending
October 2017	The UK government stated that an update to the white paper would be released, as well as a new prison safety and action plan

Previous attempts to solve the issue

Outline of Past Attempts

The Penitentiary Act

Passed in 1779 by the UK House of Commons after John Howard appealed it. It was put into effect, although the rates of reincarnation were not significantly lowered. Prisons and jurisdictions did decide to keep the reformed prisons as prison violence was a much smaller hazard.

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Prisoner's Rights Movement

The Prisoner's Right Movement of 1963 stated that any prisoner has the right to file a court case whilst still serving a sentence. The Civil Rights Movement was often referenced in the following lawsuits, and the outcome was a whole new body of laws and regulations surrounding the treatment of convicts in prisons. This movement resulted in many governments redrafting the rights as prisoners and ultimately played a role in the subsequent improvement of conditions and treatment. A decade later, 2,200 prisoners in New York City rioted and rebelled against the prison officials and tried to seize control over the prison facilities as a protest of their living conditions. They demanded better treatment and facilities so as to remain in line with the UDHR.

A White Paper on Prison Safety and Reform

The British Conservative government released a white paper on prison safety and reform in November 2016. It claimed, among other things, that it would:

- Take urgent steps to strengthen prison security and finances so that convicts are paired with professional prison officials who can provide the essential support.
- Establish clear criteria for what is expected of prisons, and empower all governors to decide how these services are provided.
- Build a contemporary facility that will empower and rehabilitate convicts, allowing them to pursue possibilities once they are freed.

Relevant UN Treaties and Events

- United Nations Standard Minimum Rules for the Treatment of Prisoners^{vi}
- UN Standard Minimum Rules for the Treatment of Prisoners, 1955
(A/RES/70/175)
- Basic Principles for the Treatment of Prisoners, 14 December 1990
(A/RES/45/111)
- United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules), 14 December 1990
(A/RES/45/110)
- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), 21 December 2010
(A/RES/65/229)
- The Universal Declaration of Human Rights, 10 December 1948
(217A)

LmunA 2022

- The International Covenant on Economic, Social and Cultural Rights, 16 December 1966
(2200A)
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984
(A/RES/39/46)
- Basic Principles for the Treatment of Prisoners, 14 December 1990
(A/RES/45/111)
- UN Declaration on the Protection of All Persons from Enforced Disappearance, 18 December 1992
(A/RES/33/173)
- The Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965
(A/RES/21/06)
- The Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979
(A/RES/34/180)
- Code of Conduct for Law Enforcement Officials, 17 December 1979
(A/RES/34/169)
- The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 07 September 1990
(A/RES/34/169)
- Safeguards Guaranteeing Protection Of The Rights Of Those Facing The Death Penalty, 25 May 1984¹⁰
(A/RES/1984/50)
- UN Recommendations on Life Imprisonment, 14 December 1990
(ST/CSDHA/25)
- Basic Principles On The Use Of Restorative Justice Programs In Criminal Matters, 24 July 2002
(A/RES/200/14)

¹⁰ Adopted by the United Nations Economic and Social Council

- The Kampala Declaration On Prison Conditions In Africa, 19-21 September 1996
- The Arusha Declaration On Good Prison Practice, 27 February 1999.

Possible solutions

There are many ways in which we can ensure the fair treatment and adequate living conditions of convicts. Many, however, have already been exhausted. There have been many attempts to reform prisons, many calls and resolutions which preach improvement in the quality of life in prison and in the prison officers. This report outlines the key factors in order to further increase efforts to create regulations pertaining to the treatment of convicts.

Expanding preexisting prisons or building new ones would be a great step to take. Providing better healthcare and better nutrition is also something that can be implemented. Further emphasising the need to have access to all humanitarian services such as hygienic bathing facilities, exercise facilities, and a centre for texts (literary and non-literary). Another great improvement would be access to psychological aid, which would be fundamental in rehabilitation of convicts. Rehabilitation opportunities should be available to all inmates so as to minimise the chances of recidivism and reincarceration. Medical care should be mandated for all inmates for their own health and for the safety of the inmates and the prison community. Medical care can be composed of but not limited to: vaccines, basic surgical procedures, dentistry, and general doctors. Segregation between criminals who have committed different degrees of crime can curb prison violence, which can already positively impact inmates and convicts.

Other solutions would be to revise the legislative system so that fewer criminals would be sent to prisons and detention centres. In order for this to work, there would either have to be new or other punishments for smaller crimes, or the abolishment of the penalty for petty crimes. This opens the door for many creative and novel solutions. The solution to the issue has been in the works for many decades, and so newer ideas and theories should be explored.

Emphasising the UDHR and some of its relevant articles can be a good starting point for the drafting of new resolutions. It is important to always trace back to a main theory or concept, such as the idea that prison should be rehabilitation rather than punitive. Another viewpoint can be the notion that prisons should thoroughly discipline inmates and convicts, and they should not have access to entertainment, intellectual stimulants, etc. Taking into account the policy statements of each country when it comes to prison and the treatment of convicts is also an important factor to bear in mind.

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Appendices & Further Reading

- i. [More on incarceration](#)
- ii. [More on Prison Reform](#)
- iii. [The Universal Declaration of Human Rights](#)
- iv. ["Elements of a Crime", Law Wisdom](#)
- v. [Amnesty International](#)
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