

The Flaws of the U.S. Prison System: A Human Rights Abuse

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Abstract

This research article explores human rights issues associated with the U.S. prison system that have not been addressed by the human rights community. Although some human rights advocacy groups address specific prisoner abuse, there are many other issues that remain under-researched and discussed. This paper explores the original goals of incarceration and, in turn, how the current model of incarceration strays from these original goals and creates a system in which human rights abuses flourish. Ideas to consider include the current link between crime rates and the prison population, the recidivism rate, the emerging prison industrial complex, and the effects that these ideas have on incarcerated individuals and on society. Finally, this paper addresses solutions to the current problem of prisons, including alternative methods of punishment for crime which have proven to be more effective.

In the United States, the national prison system has been linked to human rights problems such as unlawful arrests, unfair trials, inhumane prison atmospheres, lack of adequate health care, wrongful treatment of prisoners by prison guards, and cruel forms of punishment. Although human rights advocates have taken issue with these problems, they have not adequately addressed the country's emphasis on incarceration; the incarceration system in America strays from its goals of rehabilitating prisoners to the point of committing human rights abuses and affecting incarcerated individuals' futures. Although it is important to address the issues that the human rights community already focuses on, it is

also important to discuss all aspects and problems of the prison system – especially when these problems will likely lead the incarcerated into lives of further crime. More problematic still is that the individuals who are most likely to face prison-related human rights abuses are usually members of lower socio-economic classes, ethnic minorities, substance abusers, the under-educated, and those with severe mental health issues.

In terms of the U.S. system of incarceration, prisons have been straying from their original, immediate and preventative goals for about twenty years. As a result, prisoners are often forced into a corrections facility for crimes which would not be punished by imprisonment in the past, and criminals who can be helped with treatment are forced into prisons which lack the resources necessary for them to be rehabilitated into society in healthy ways. This causes prisons to become a revolving door for many of America's prisoners, with release from prison often resulting in new crimes and arrests. Although some may use these facts to argue in favor of prisons to keep society safe from criminals, a closer look reveals that these people could be punished and rehabilitated in many other ways, and that these alternatives have much higher success rates for keeping criminals out of prison. Alternatives such as probation and counseling are more effective for preventing future crime. The U.S. prison system violates rights by placing individuals in a system which is known to have high rates of return and a lack of effectiveness, thereby forcing prisoners to take part in a system which will prolong their criminal lifestyles.

The ideas that the current prison system is lacking in its ability to rehabilitate criminals, and that prisons are currently run in ways that are dangerous to both society and individuals, have human rights implications. These issues frequently escape the human rights literature because most laws specifically target institutional abuses. After an individual serves their sentence, however, they shouldn't be further punished by things like trauma, stigma, the high likelihood of returning to prison, and the refusal of necessary services such as drug abuse treatment and medical care. Furthermore, many criminals are

unable to lead productive lives once they are returned to society because of increases in learned violence and the nature of the prison environment itself, which teaches criminals that they are naturally violent rather than able to make life changes.

This paper focuses on the shortcomings of the United States prison system and how these problems lead to human rights abuses often neglected by human rights literature and advocacy. In order to establish why prisons create and prolong abuses in human rights, it is necessary to first review which human rights violations occur and why these issues are not typically covered by human rights scholars and organizations. Next, it is necessary to understand the original goals of prisons and their role in the protection of society, as well as how prisons have strayed from these goals and the implications for both society and prisoners. Third, this paper reviews data that supports the idea that prisons contribute to human rights abuses because of their ineffectiveness in rehabilitating criminals. Some of the evidence reviewed are the correlations between the crime rate and the prison population and the recidivism rate, or the rate that criminals return to prison after being released. Literature related to the prison industrial complex, or the connections between correctional facilities and American political and economic interests, is also reviewed. Next, both specific human rights abuses and the general abuses caused by this dysfunctional American correctional system are discussed. Finally, possible solutions and effective alternatives are outlined for addressing these human rights concerns.

Human Rights Advocacy and Prisons

There is a plethora of human rights literature and advocacy dealing with prisons, taking many different stances and covering a wide range of issues. Many advocates are concerned with abuses such as secret prisons abroad, imprisonment without a fair trial, issues with the incarceration of suspected terrorists at facilities such as Guantanamo Bay, and political prisoners. Although much human rights advocacy deals with global issues, some focuses on prison issues within the United States. Human rights

advocates commonly address youth issues related to the U.S. prison system, whether juvenile offenders are facing life without parole, are housed in adult prisons, or are given the death penalty. For example, Human Rights Watch (2012a) writes that hundreds of youth in California are facing life in jail without the chance of parole. Youth in adult prisons, and youth facing life without parole, are issues which are currently discussed in human rights literature because they are infrequent occurrences in developed countries outside the United States. Human Rights Watch (2012a) notes that the United States is the only country where people under 18 can be sentenced to life without parole. Psychological studies have shown that teenagers have the ability to change and grow as persons in ways that older people cannot; they can more easily be rehabilitated and taught the benefits of a life without crime than some adult prisoners (Human Rights Watch, 2012a). Furthermore, a study showed that life-sentenced youth had not actually killed a person or committed a crime; they were instead all accomplices to crimes. Many of the youth were first-time offenders and African American, pointing toward racial disparities in terms of the punishment of crime that implicate the U.S. government in human rights-violating discrimination (Human Rights Watch, 2012a). American youth facing life without parole in adult prisons “experience conditions that violate fundamental human rights” (Human Rights Watch, 2012b). Almost all of the youth studied in a 2012 survey reported experiencing both physical violence and sexual abuse in adult prisons. Furthermore, individuals facing no chance of parole are often not offered opportunities for education, work experience, or rehabilitation that could help them to lead functional lives. Human Rights Watch characterized these problems as qualifying as “excessive cruelty” (Human Rights Watch, 2012b).

Human rights advocates also address the issue of U.S. prisoners being placed in isolation and solitary confinement for extended periods of time. Amnesty International USA (2011 and 2012a) outlines the problem of isolation units, particularly in the state of Arizona. These isolation units are not up to international standards because prisoners are housed in small cells for up to 24 hours a day

without work or contact with other prisoners. Many prisoners, although deemed to be some of America's most dangerous criminals, suffer from mental illnesses and disabilities. Amnesty International argues that these conditions are not humane or respectful of a person's inherent dignity, as outlined by international law. The effects that these isolation facilities have on individuals over long periods of time are considered to be less-than-humane, and therefore in violation of international rights standards such as the International Covenant on Civil and Political Rights. International human rights experts have called on countries to limit solitary confinement to short periods of time as a form of additional punishment for extremely disruptive prison behavior only. Since the majority of these prisoners will be let out of prison and eventually returned to society, this practice of solitary confinement limits proper opportunities for rehabilitation such as the ability to receive an education, access to libraries and news sources, and opportunities for work (Amnesty International USA, 2012a). In Louisiana, two people have been held in solitary confinement for the last 40 years as punishment for the murder of a prison guard. The two prisoners were convicted of this crime because of inmate testimony, rather than DNA or security camera evidence. The men are denied access to other prisoners, work, education, books, and newspapers. Furthermore, both inmates have suffered health issues because of their confinement, and they are both suing the government for the use of cruel and unusual punishment. This form of punishment evades international human rights standards of the housing of prisoners (Amnesty International USA, 2011). Amnesty International and other human rights organizations (including the National Religious Campaign Against Torture, the National Prison Project, Human Rights Watch, the Center for Health and Human Rights), and many psychologists consider solitary confinement to constitute cruel and unusual punishment, degrading treatment, and torture (Amnesty International, 2011).

Other issues addressed by human rights advocates include capital punishment and the incarceration of the elderly. Capital punishment, or the death penalty, is often used unfairly against

members of the lower socio-economic classes and racial minorities, as well as persons suffering from mental illnesses. Human rights groups also take notice of the numbers of people who have been found to be innocent of crimes only after they have been executed. Despite its status as a developed country, the United States still defies international human rights standards by enforcing the death penalty in numerous states, even though 140 other nations (including all other “first world” nations) have outlawed the use of capital punishment. Research shows that the use of the death penalty in the United States does not deter other criminals from committing the same crimes; states which have the death penalty do not have lower crime rates than states who have outlawed the death penalty. Furthermore, the tremendous costs of initial trials, death penalty trials, prison housing, legal affairs, and equipment cause the option of capital punishment to cost more money than all other forms of punishment, including even imprisonment for life. The United States has not banned the use of the death penalty despite its ratification of the International Covenant of Civil and Political Rights and multiple calls by the United Nations to end the practice (Amnesty International, 2012a, and Amnesty International USA, 2012b).

Although the international human rights regime regularly speaks out against the frequent violations outlined in this section, it does not regularly deal with the nature of prisons themselves. I argue that prisons in the United States are not conducive for rehabilitating criminals for reentrance into society, and such imprisonment is therefore a human rights abuse. This paper serves not only as a vehicle for addressing these violations, but it also serves as a critique of the human rights community for failing to address this issue. The lack of existing literature in the human rights discourse may be because of the abstract qualities of the issue itself, as well as the difficulty in making arguments about such a complex type of human rights abuse. There are no international human rights documents that directly address the nature of prisons, or what goals they must meet in order to achieve the proper and healthy rehabilitation of prisoners. A search on Amnesty International, Human Rights Watch, and other human

rights advocacy Web sites yields nothing about the nature of prisons themselves, or how human rights abuses may be taking place because of high recidivism rates or high imprisonment rates. This paper argues not only that human rights abuses are taking place because of the negative effects prisons have on individuals lives, but that the human rights community has an obligation to research and share information on these types of abuses. In order to begin this necessary discussion, we must first consider the goals of the U.S. prison system in general.

The Goals of Incarceration

American prison systems traditionally have four main goals: three preventative goals and one immediate. The immediate goal of prisons is to punish members of society who break the laws necessary for a stable and productive society. Without this punishment, criminals would continue to break laws and society would be unproductive, chaotic, and dangerous (Pew Center on the States, 2011). In human rights terms, this immediate goal of punishing a person who has committed a crime is not a human rights abuse if the punishment fits the crime; that is, if the punishment is not cruel and unusual, and if punishment only takes place for the amount of time originally decided upon fair conviction. While this first goal is established in order to attend to the immediate action of a crime, the three additional preventative goals are created in order to stop future crimes from taking place. The first preventative goal of prisons is to separate criminals from society so they cannot commit more crimes and so they cannot harm members of society. This stops people who do not understand the laws or who do not care to follow the laws of society. The second preventative goal is to deter the general population from committing crimes and breaking societal rules. By putting people in prison for committing crimes, other members of the population can see the punishment for breaking laws, making them less likely to break laws because they know that they too will be punished. In terms of rights, members of society will have their human rights upheld by being allowed the knowledge of the things

which are considered illegal and the things which a person will be punished for doing. The third preventative goal of prisons is to discourage criminals from committing new crimes. After a person is punished for committing a crime, the punishment of going to prison and being separated from society is supposed to be a severe enough that the criminal will not commit new crimes for fear of going back to prison. In terms of human rights, these preventative goals theoretically do not violate human rights if prisoners enjoy their human dignity and basic rights protections (such as access to essentials such as food and water, and freedom from torture), and society maintains clear laws and fair trials. All of these preventative goals work to uphold social stability and to protect members of society; when the ideals are followed with respect for human rights, they allow for the protection of individual and societal rights (Pew Center on the States, 2011).

There are problems, however, with putting safeguards into place to ensure that the goals of prisons are met in a rights-protective manner. Immediate goals, such as making sure that criminals are punished for their crimes, are often seen by the public as being of the utmost importance. Even among jail and prison staff, the primary goal of imprisonment is seen to be incapacitation, or the immediate goal of preventing crime from taking place again by the same criminal. Incapacitation ranks above retribution, deterrence, and rehabilitation in order of importance, according to public opinion, which shows that society is often more interested in punishment than rehabilitation (Kifer et al., 2003). The effects of this strong public preference for immediate punishment rather than the three preventative goals mean that it is easy for society to slip away from the adherence to these goals, and instead shift to a prison system which is only effective in punishing, rather than also preventing future crime and rehabilitating criminals. A criminal who is punished but not helped will be unable to learn a crime-free lifestyle, and will forever be trapped in a revolving life of prison sentences. A state that knowingly creates and perpetuates this sort of system is violating the fundamental rights of its members.

American values related to individualism, hard work, and justice help us to understand motivations of the current U.S. prison system. One example is the idea of the American dream, or the belief that any person will get what they deserve from hard work; those who struggle simply did not try hard enough. In terms of prisons, American society stigmatizes criminals and makes sure that those who commit crimes are punished; this is shown by the continued use of the death penalty, even when other developed nations have abolished such punishment. Preventing prisoners from returning to prison in the future, or from committing further crimes, are not important goals for the current American justice system. These goals are crucial, however, for making sure that prisons are effective and that individual rights are upheld. If prisons are not able to deter individuals from committing further crimes, prisons do not do their job in terms of protecting society from criminal behavior and preventing future victimization of individuals (Pew Center on the States, 2011). Furthermore, if preventative goals are not held as important, the human rights protected by them will also be endangered.

In terms of human rights, both criminals and crime victims may not be safe if the prison system does not meet its goals for protecting society. A prison system that does not deter criminals from committing future crimes does not keep former victims safe, nor does it ensure that other members of society will be safe from criminal activity in the future. Criminals being punished in a prison system that does not value rehabilitation, but instead furthers criminal activity and is interested in immediate punishment rather than effective punishment and deterrence, will be punished unjustly for one's crime and be forced to live a life of crime without the ability to become a normal individual in society.

The Current Model of Incarceration

Although prisons have ideally subscribed to the goals listed in the previous section in the past, the current U.S. prison system does not enforce effective preventative measures against crime. This means that the three preventative goals listed above – separating criminals from society to keep the

population safe, deterring crime, and discouraging criminals from committing new crimes once they have served a sentence – are not working. Research shows that these goals are ineffective in the current prison system; examples of this can be seen in statistics for the recidivism rate in society, and also in crime rate and prison population correlations. The data clearly shows that the modern U.S. prison system does not achieve the above-mentioned goals, leading to human rights abuse when criminals are punished in ways that lead them away from rehabilitation and towards a life of continued crime.

Crime Rates and Prison Population

Prison populations, or the measure of the number of people currently in prison, should theoretically be correlated to the crime rates in a society. Spelman (2008) argues that prison populations should naturally rise as crime rates lower; the more criminals in prison, the fewer crimes being committed. This creates the natural role of prisons in society, which is to keep criminals away from other people so that they will either be punished for their crime or deterred from committing further offenses. This should also lower the crime rate over time, because past criminals will be rehabilitated into society after serving time in prison. Having a higher prison population should also lower crime rates in other ways, such as raising the personal feeling of risk that criminals have when committing crimes and therefore causing criminals to refrain from criminal activities. This is known as general deterrence (Spelman, 2008).

Research finds, however, that this model of the ideal prison-crime relationship is tied to other societal factors and is often ineffective. For example, some prison sentences may be too light, and may in fact not cause a person to feel fully punished for their crime. The criminal justice system is then no longer seen as a deterrent to criminals. On the other hand, increasing the length of prison sentences so that criminals feel more fear towards the criminal justice system may waste resources, or it may not be effective because a person could instead be rehabilitated into society by serving a shorter sentence.

Research also finds that crime rates do not necessarily lower after people are released from prison; in many cases, they actually rise. This means that the goals of prisons being used to deter regular individuals from committing crimes and to deter past criminals from committing future crimes are not effective. Prisoners may increase their criminal activity after being released from prison, possibly because of a non-effective system of rehabilitation or because of the connections that are made with other criminals during incarceration. Increased crime after incarceration may also be due to incarceration's disruption of families and its weakening of social and economic ties, especially in poor areas. These problems may overwhelm prison's societal role of reducing the crime rate, thereby causing high incarceration rates to further increase crime rates, if not simply diminishing the effect of prison's rehabilitation process (Spelman, 2008).

Research on the efficacy of incarceration in the United States shows mixed results. For example, in a review of three current studies on the crime-prison relationship, three different results were obtained. The first study by Levitt (1996) found that if the prison population was increased by one percent, property crime would be reduced by 0.26 percent and violent crime by 0.42 percent, meaning that prisons are effective in reducing the crime rate and keeping society safe. This study showed statistics based on government data, and its results warranted a recommendation that building more prisons would create a cost-effective way of controlling crime rates. A second study by DeFina and Arvanites (2002), however, found that an increase in prison population would have no effect on crime. This study's results found that the prison population and the crime rate essentially have nothing to do with each other, and that prisons will have no effect regardless of the level of crime. The crime rate may be tied to other relevant factors outside of the threat of prisons or the numbers of individuals in prisons, such as a lack of jobs or resources. Finally, a third study by Liedka et al. (2006) found that increasing the prison population would cause crime rates to increase in multiple states, meaning that prisons are not only not helping society by reducing crime, but that they are in fact causing crime to increase. It is clear

that this conflicting evidence causes researchers to give completely different recommendations for reducing crime, and experts such as Liekda et al. (2006) and Western (2006) recommend reducing prison populations in order to lower the crime rate. A final study by Spelman (2008) attempted to find the reasons why researchers, who base their studies off of the same data, find different results. This study concluded that the data was correlated differently in each study; some researched crime's effect on prison population and others researched the prison population's effect on crime. Spelman (2008) concluded that these multiple interpretations of data were caused by the simultaneous determination of both of these factors on one another. Furthermore, Spelman (2008) concluded that the effects of crime and prison population on each other differ by time and place.

These studies are significant to the question of prison effectiveness, and by extension the rights of prisoners, because the levels of crime directly affect the levels of safety in a society. Although not all research leads to the conclusion that prison ineffectively rehabilitates criminals or fails to stop crime from taking place, some research concludes that prisons increase crime. If that is the case, human security is impacted at the society level while the rights of the prisoner are also impacted. The prisoner deserves to be punished in a way that will cause them to choose a non-criminal lifestyle. When individuals are being punished by a system that is not effective in rehabilitating them for reentry into society and into normal lives, the rights of prisoners are violated. Prisoner's rights are further violated, however, when individuals are punished beyond their sentenced punishment through the negative effects of prison on their future life chances.

Recidivism

Recidivism rates, or the likelihood that a prisoner will return to prison for a new crime after the completion of a criminal sentence, are another way of approaching the U.S. prison system as a human rights issue. The rate of recidivism is evidence for determining whether prisons are an effective means of

rehabilitating criminals in comparison to other methods of rehabilitation. This section will show that because people coming out of prison face a high rate of returning to prison, human rights are often violated. Because these rates are extremely high while other options for punishment (such as probation and parole) are extremely low, there are human rights implications to sending an individual to prison – particularly because their experience in prison is the most important factor in determining whether they are likely to commit crimes again in the future.

It is important to look at the recidivism rate in order to determine whether prisons violate the rights of prisoners. When the recidivism rate is high, criminals are likely being punished without effective rehabilitation. A study by the Pew Center on the States (2011) concluded that within three years after release from prison, 51.8 percent of individuals will be back in prison because they have committed a new crime. Although this study only analyzed three years post-prison, it is the most extensive study of recidivism rates to date. Researching the recidivism rate is very difficult to do because it must measure the likelihood of a person returning to prison after a prison sentence is completed. The problem with measuring recidivism is that people enter and are released from prison at different times, meaning that each person in the study must have a start date, an end date, and a three year waiting period upon which the likelihood of them returning to prison is measured. This could be done over a long period of time to measure ten or twenty years, but it would then be old data because the prisoners would be older, the laws would have changed significantly, and it would be measuring criminals who committed crimes twenty years ago, thereby skewing the data. However, the Pew Center on the States (2011) study mentioned above spent many years collecting this data and it is the best to date. It concludes that more than half of criminals do not find prison to be an effective punishment, or a punishment that will keep them from committing crimes. This may be due to either the prison environment, which is ineffective at rehabilitating criminals because of a lack of opportunities (such as work or the ability to obtain a future job), or due to the idea that prison is not enough of a punishment

to deter future crime. However, I argue that it is likely that prisoners return to prison because of the lack of rehabilitation opportunities in prisons. Furthermore, placing criminals in a setting which will not rehabilitate them (or at least 51.8 percent of them) creates a prison system which forces prisoners to give up not only their current lives through incarceration, but their future well-being by forcing them into a prison system that perpetuates criminal activity and recidivism. Prison sentences – rather than being put on probation or parole, or being sentenced to mandated counseling or being given chemical dependency treatment – have human rights implications because they limit life chances for prisoners.

Recidivism levels have remained relatively stable since 1999, even though the prison population and spending on corrections is at an all-time high. Each year, U.S. states spend \$52 billion dollars on corrections, most of which is spent on prisons (State Legislatures, 2011). This shows that increases in prison spending do not help to rehabilitate criminals and lower the recidivism rate. Crime levels have been decreasing since their peak in the 1990s, and by the late 1990s crime rates were similar to those of 1968. In fact, the rate of violent crime decreased in the United States by about 20 percent in this time period, while the number of individuals in prison increased by about 50 percent (Schlosser, 1998). This also means that even though the crime rate is actually lowering dramatically, the likelihood of returning to prison is at a strangely high level. Since the prison population is very large despite the low crime rate, we can conclude that increasing incarceration rates does not lower crime or the level of recidivism. This shows that rehabilitation effectiveness has not increased with the growth of the prison system, causing the system to fall short despite its increases in arrests (Pew Center on the States, 2011). Furthermore, it should be noted that prisoners are predominantly poor and racial minorities who are not getting the help they need to become functioning members of society, thereby violating prohibitions against discrimination. These issues highlight why prisons are ineffective, not only lacking the abilities to rehabilitate criminals but also making prisoners more likely to commit criminal acts in the future.

The Prison Industrial Complex

The United States currently houses more prisoners than any other country, and these numbers have been increasing in the last twenty years. Approximately a thousand new prisons have been built in this time frame, and now there are roughly two million Americans in prison. This number increases by 50,000 to 80,000 people every year (Schlosser, 1998). More nonviolent offenders are being incarcerated, which is what is driving the prison population dramatically upwards. In the past (and today in other countries), non-violent crimes would usually lead to treatment, fines, and community service rather than prison. Furthermore, these criminals are the ones who would benefit far more from treatment and assistance, rather than punishment in prisons that do not lead to effective rehabilitation. For example, many non-violent prisoners are illiterate, have mental illnesses, or have substance abuse problems. The average person in prisons today also has five felony convictions, meaning that the prison system is especially ineffective for those who continue to cycle through its doors. For those who would benefit better from treatment programs (such as drug abusers, or those with mental illnesses who could benefit from medication), treatment options have been cut in half in the past twenty years. Today, treatment is only available for one in ten inmates who could benefit from these programs. Because of these shortcomings, those who in the past would be sent into a treatment program will now be sent into a prison. These issues point to clear human rights violations; individuals are not only denied state treatment, but they are placed into a correctional facility that does not provide them with the opportunity for correction (Schlosser, 1998).

With this obvious lack of benefit to society, why does this cycle continue? The answer to this question is the underlying problem of the Prison Industrial Complex. Schlosser (1998) defined a complex as an “overreaction to some perceived threat”; in this case, the threat is the common criminal. Although the crime rate is actually much lower in recent years, it is perceived to be very high by society. This is partly due to politicians, who are re-elected by promising to be tough on crime and who are influenced

by lobbyists, as well as to economic developments that come from the construction and maintenance of prisons. For instance, jobs are provided in rural areas, and private companies who own the prisons make around \$35 billion dollars every year by keeping nonviolent offenders in prison. Rather than being a large conspiracy, this is a very real motive for keeping prisons open and increasing spending on corrections. This increase in prison spending takes place in the name of profit, regardless of the actual need for prisons or the impact it creates on individuals who are sent to prison instead of to treatment facilities (Schlosser, 1998).

Many human rights organizations write about the problems and implications of the Prison Industrial Complex. There are many individuals who are stuck in this cycle of recidivism because of the lack of help that prisons provide. This unending cycle shows the inefficacy of prisons, the lack of resources to help criminals, and the ways that prisons work against protecting society from crime. Furthermore, instead of receiving treatment, which allows for a lower recidivism rate for criminals, individuals who commit crimes are forced into a system unable to help them and actually structured so that future crime is much more likely to occur. This is a much more severe form of punishment than intended, since an individual may lose an entire lifetime to future crime because they were sent to prison instead of a treatment center. There are obviously human rights being denied, and individuals are forced into inhuman and degrading situations due to this lifelong punishment.

Effects of the Current Model of Incarceration

Some of the basic human rights listed in the Universal Declaration of Human Rights apply to the situation of ineffective prison systems. Article 5 states that no person should be subjected to punishment which is inhuman or degrading (United Nations General Assembly, 1948). That the fact that prison sentences often perpetuate violence and criminal activity, thereby increasing a prisoner's chance of a life of future crime, can be considered a degrading and inhuman punishment with a lifelong effect.

Incarcerating substance abusers, individuals with mental health problems, and a large amount of illiterate individuals without effective treatment options, work opportunities, or educational resources is also an issue of degrading and inhuman punishment. Another example comes from the shifting goals of the prison system, which put nonviolent criminals in prisons for crimes which would have previously led to fines or community service. This constitutes excessive punishment in the interests of lobbyists, politicians, and various economic stakeholders. Notably, Article 11(2) of the UDHR states that no heavier penalty may be given to a person committing a crime than the one that was given at the time that the offense was committed (United Nations General Assembly, 1948). Again, given that the effects of prison sentences on individuals are life-long, it could be said that the prison system creates penalties which are more than that given at the time of the offense.

Solutions, Alternatives, and Conclusions

The prison system has been growing since the 1970s, and costs for prisons have increased by 30 percent over the last twenty years. This expensive system is more popular in comparison to other cost-effective policies and programs which are available but used less frequently (Pew Center on the States, 2011). Because the prison system is falling short, other programs must be considered and utilized in order to lower recidivism rates which the prison system cannot effectively control. One example of an additional option for criminals is probation, which costs twenty times less per day than prisons. Although there are many studies about the positive features of parole rather than prison, a study in Zuckerman (1999) shows that some states had lower costs and decreased amounts of violence by putting non-violent criminals on parole and probation instead of in prison. Recidivism rates are also much lower when criminals are placed on probation or parole instead of in prison, especially for non-violent crimes (Zuckerman, 1999). Those entering parole and probation programs are less likely to commit future crimes because of the personalized nature of these programs compared to prison, and

possibly because of their ability to lead a normal life with some personal restrictions. Utilizing alternatives such as these, as well as altering the existing prison system, is what caused as the state of Kansas to lower their recidivism rate by 22 percent between 1999 and 2004. States that have lowered recidivism rates often implement risk assessments, re-entry planning, and post-release supervision, all of which are personalized for each criminal (Pew Center on the States, 2011). Changing prison so that it is a personal experience – where one must meet frequent goals, be updated according to one’s risk of violence in order to achieve parole, be counseled on how to re-enter society, and be supervised after returning to society – allows the individual to feel that they are being helped to change, rather than simply being punished. Human rights are upheld and extended far beyond their minimum requirements in programs such as these, which is a welcomed alternative to prison systems that perpetuate crime and do not meet the goals of the justice system.

Alternative programs to traditional prison also show greater positive results for prisoners. In a study comparing traditional prison with a six-month boot camp prison, the boot camp cost less for each inmate and had much lower recidivism levels. These programs, which have a military boot camp style, encourage prisoners to act strong, to be productive members of society, and to strive toward things such as a life of competitive work or education to achieve their goals (Bierie, 2009). The boot camp prisons do not violate human rights because their programs do not punish criminals in inhuman ways, but instead teach structure, order, and goal-oriented thinking. They also have lower recidivism levels in comparison to traditional prisons, meaning that these prison programs actually show successful rehabilitation into society. Other programs which lower recidivism include education, which also cuts the costs of “long term warehousing” of inmates who return to prison because of a lack of education and the inability to obtain a well-paying job (Esperian, 2010).

Studies also show that treatment during incarceration results in lower recidivism rates than traditional prison sentences. Treatment may include things like counseling for sex offenders, treatment

programs for substance abusers, or medication for the mentally ill. Furthermore, prisoners who do not receive some form of treatment, counseling, or parole are most likely to return to prison within only sixty days of release. Those receiving treatment have longer periods without illegal activity, incarceration, and drug use, or commit less-severe crimes and have less-severe consequent prison sentences if they do return to prison (Prendergast et al., 2003). Completing a treatment program in addition to imprisonment lowers recidivism by 20 to 27 percent (Duwe, 2010).

It's important to stress, again, that incarceration rates do not necessarily lead to lower crime rates; upholding the human rights of prisoners does not come at the cost of society as a whole. A recent Pew Center on the States (2011) study also found that every state that has cut imprisonment rates since 1999 has enjoyed a decline in crime rates. Pew compared states that had increased the prison population with states that kept their prison population numbers relatively stable or had lowered their prison population in the last twelve years. With this data in mind, alternatives to traditional prison sentences should be further explored and implemented in some cases – particularly in cases where treatment can help prisoners (such as those with mental illnesses or substance abuse problems), or when high recidivism rates increase the likelihood that prisoners will commit crimes in the future. Treatment options and prison alternatives also protect the human rights of prisoners by allowing criminals to be punished for their crime in an immediate way, while at the same time teaching them to change their lives so that they do not continue a lifelong cycle of crime.

It is essential that human rights advocacy groups define this issue as a human rights abuse. Although there is plenty of research on recidivism rates, crime rates and prison population non-correlates, and the effectiveness of alternative forms of punishment, none of this research comes from human rights advocacy groups. This issue is clearly one that deals with human rights and issues of human dignity. One possible explanation for this lack of advocacy may be that prisoner rights are not clearly outlined in any international human rights document; this issue area does not deal with tangible

issues such as torture or a lack of food, and this population may be a low priority for many governments. The issue of prison reform is also difficult because it is systemic, widespread, and complex; it is a social ill with many stakeholders involved. This issue is further complicated because human rights are being abused because of how punishment affects the rest of a person's life; this is less direct and measurable than other violations. One could claim that there is a right to be punished for only the original amount of time stated at the original conviction, and that the prison system is violating this right by causing detrimental effects to prisoner's lives, but this is still a grey area of actual, tangible human rights abuse.

Nonetheless, the current U.S. prison system suffers major problems that need to be both addressed by human rights groups and the United States government. The U.S. should not stop at implementing more effective strategies for punishing and rehabilitating criminals; it should be constantly testing and implementing more effective strategies to perfect the corrections system and uphold the human rights of prisoners while ensuring community safety.

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