

America's Prison Problem

Christian Bouchereau

*T*he code of Hammurabi has been credited with being one of the earliest examples of a penal system. It contains no religious laws but establishes a now famous doctrine. In Hammurabi's code, "the basis of criminal law is that of equal retaliation, comparable to the Semitic law of 'eye for an eye'" (Hammurabi, n.d.). The fear of losing a hand for theft and other poetically fitting punishments were used to deter crimes. But this system was far from perfect; as an old proverb says, "the old law of an eye for an eye leaves everyone blind". Instead of continuously injuring and blinding its people, most civilizations decided to adopt a prison system in hopes of protecting law abiding citizens from those who would harm them or take their possessions. This was done with a secondary goal of giving criminals a chance to learn from their punishment and the opportunity to return to their society and help it thrive. In America, our prisons are among the largest (in building size and prisoner population), and most expensive, and they harbor some of the most dangerous inmates in the world. Despite their original intent, can it be that America's prisons are hurting the country they are designed to protect? The intent of this paper is to delve into a problem that plagues Americans of every class, color, race and gender. The paper will examine how prison affects minds and bodies and show how it leaves inmates broken and ultimately without hope for the future.

The Situation at Hand

Society as a whole can be said to function well when law and order are upheld. But when someone strays outside the paradigm, they need to be reminded of how things work in that society. In modern society, the penal system is here to remind citizens of the nature of things, including how to behave and treat others; this in essence is the process of rehabilitation. Yet throughout American history prisons have included torture, hard labor, public humiliation (the stockade, lashings), and isolation. They were never known for their education programs or work release programs, but rather for spitting out public offenders. The proof is that "in the past thirty years, the United States has quadrupled its incarceration rate but not its prison space. Work and education programs have been cancelled, out of a belief that the pursuit of rehabilitation is pointless" (Gawande, 2009, p. 6). Sad to say, the penal system's failure

seems to have gone almost unnoticed as evidenced by a lack of change. Proof of the intent to rehabilitate seems apparent only in the change of names from “prisons [becoming] penitentiaries, then reformatories, correctional centers and rehabilitation facilities” (Anderson, Branagan, & Constable, 1982, p.2).

The problem is too large to ignore yet not simple to remedy. Linda Kiltz (2010) wrote that “for the first time in history more than one in every one hundred adults in America are in jail or prison, a fact that significantly impacts state and local budgets without delivering a clear return on public safety” (p.25). The original intent of rehabilitation in prisons is well known, so why isn’t it working? One possible reason is the public’s perception of justice. Despite the fact that modern society doesn’t function by Hammurabi’s code, the public seems to demand retribution over rehabilitation. The politician who wants to reform the prison system by decreasing sentences for certain crimes and funding better rehabilitation programs is always painted as being soft on crime. That label never sits well with their constituents. It seems “the public wants to ‘get tough’ with criminals, and legislators, prosecutors and judges are obeying that diffuse mandate by sending more people away for longer stretches” (Anderson et al., 1982, p.2). The constant calls for tougher sentences turns the prison systems into a form of revenge for those harmed by criminals, and not surprisingly the rate of incarceration continues to increase at an alarming rate. The victims of the penal system arguably include the prisoners themselves as well as the larger society because what happens to the prisoners in turn affects the community, and furthermore the country itself.

The Body

The most direct impact prison life has on an inmate is their overall health. An inmate is exposed to many risks including: beatings, stabbings, drug abuse, depression, PTSD, and death, but the one that has the biggest impact (on the community) is the spread of disease. The spread of infectious disease, despite being preventable, is still a rising nuisance.

The prevalence of infectious disease is on average 4 to 10 times greater among prisoners than among the rest of the US population, and the prevalence of chronic disease is even greater. In 1996, 1.3 million inmates who were released from prison had hepatitis C, 155,000 had hepatitis B, 12,000 had tuberculosis, 98,000 had HIV, and 39,000 had AIDS. (Golembeski, 2005, p.2)

Robin G. Steinberg (2004), the director of a nonprofit group offering criminal defense services to indigent clients, addressed the spread of HIV in prisons, claiming “the root of the problem lies in the fallacy that denying the existence of sex or drug use in prisons will mean that prisons are, in fact, drug free. Nothing could be farther from the truth” (p.43). According to the Prison Rape Elimination Act (PREA) in 2005, “13 percent of the inmates in the United States have been sexually assaulted in prison. Many inmates have suffered repeated assaults. The total number of inmates who have been sexually

assaulted in the past 20 years likely exceeds 1,000,000” (Thompson, 2009, p.124). That figure doesn’t account for consensual sex, the sharing of needles for IV drug use, or for making prison tattoos. Steinberg’s article compares the American penal system’s almost unanimous denial of the problem to the proactive programs in Europe, Asia and Canada where condom distribution and bleach for sterilizing needles and syringes have been adopted (p.43-46).

The worst part of it is that these diseases go home with the prisoners and sometimes they don’t even know they have them. The prison system is not known for its excellent health care, after all providing prisoners with great health care could be construed as being soft on crime. This perception and denial leads to the spread of disease: “in New York City, [where] 80 percent of the TB outbreak cases in 1989 traced back to jails and prisons” (Steinberg, 2005, p.46). The poor protection of inmate safety has made it possible for a man to go to prison for a nonviolent crime, and return with a disease that can infect and kill anyone ranging from his immediate family to his whole community. Is this rehabilitation or justice?

The Mind

Prisoners are kept under control in order to prevent physical harm to others, but can this cause mental harm? Solitary confinement is an oft used tool for keeping inmates in control when they are prone to violence, or acting out. This tactic is reserved for the most violent prisoners of a certain facility. Any facility using it is allowed to decide the length of stay in confinement without even mentioning it to a judge. In essence, it is like a prison within the prison.

The origin of solitary confinement in the US is actually benign. It was the Philadelphia Quakers of the 19th century who dreamed up the idea, establishing a program at the city’s Walnut Street prison under which inmates were housed in isolation in the hope of providing them with an opportunity for quiet contemplation during which they would develop insight into their crimes. That’s not what has happened (Kluger, 2007).

The harsh reality is that solitary confinement is counterproductive. It leads to prisoners acting out even more violently, due to the lack of human interaction. In severe cases it can lead to mental breakdown, fits of rage, an inability to interact socially, and even suicide. Atul Gawande (2009) wrote that “one of the paradoxes of solitary confinement is that, as starved as people become for companionship, the experience typically leaves them unfit for social interaction” (p.5). This behavior is counter to the goal of making prisoners function well in society. In the end they return to the general prison population prone to cause more violent outburst. When that becomes a vicious cycle, supermax prisons come into play. Supermax prisons have risen out of a need for even more control. These prisons are filled with inmates that maximum security prisons have problems controlling. These are the inmates that kill while in jail, the ones who manage to sneak in deadly contraband, deal drugs from

their cells, and can turn many benign items into weapons.

Advocates for solitary confinement argue that there is no other way to control these inmates, but they are wrong. Solitary confinement can only make things worse for inmates and for us because it will “demolish their psyches when they’re in prison, and nobody’s safer when they get out” (Kluger, 2007). However, the British prison system has reformed some of their tactics when dealing with violent prisoners based on the concept that “problem prisoners were usually people for whom avoiding humiliation and saving face were fundamental and instinctive. When conditions maximized humiliation and confrontation, every interaction escalated into a trial of strength. Violence became predictable consequence” (Gawande, 2009, p.9). Gawande goes on to talk about how the British gave the most control to their most violent inmates, and offered them a life similar to that outside of prisons. They were offered a chance to get work, education, and more freedoms including “contact visits”, better housing, and even a chance to air their grievances. These changes mimic the settings of a functioning society, and teach the inmates the benefit of obeying rules and laws. The program is a step in the right direction, because when inmates are treated like human beings, it is likely they will respond accordingly. This is a sign of prison rehabilitation at work.

The bad news is that this ideal has yet to be implemented in US prisons. This can partly be blamed on the need for revenge that comes from the demand for politicians to be tougher on crime. Another problem is the image created by the term “country club prison”. The phrase is based on the idea that “some people fear that prisons are now too cushy, so spiffed up that chastisement is nullified” even though the “plain deprivation of freedom--the average prisoner serves two years or so-- is quite severe all by itself”(Anderson et al., 1982, p.3). This mentality makes it hard for prisons to lean towards a more humane approach, and it echoes the mentality that started with an eye for an eye. Yet stripping inmates of rights and freedoms doesn’t help motivate reform and rehabilitation.

The Stigma

Serving your time in prison does not mean that prison is done punishing you. Lingering in the public shadow of any former inmate is the stigma of fear and distrust. A great deal of the outside world assumes inmates are violent. When released back into society, how former prisoners assimilate greatly affects their future. Yet the stain of a prison term on an application paper can create setbacks for employment. A study that followed prisoners upon re-entry found that “seventy five percent identified that having a criminal record was the greatest barrier to finding jobs” (Kiltz, 2010, p.25). The fear associated with former inmates leads them to work in mostly menial jobs that pay too little to sustain a healthy and happy lifestyle.

In some cases the stigma that comes with being incarcerated has evolved

into a self-fulfilling prophecy:

Many newly released ex-offenders return to urban core areas where they are likely exposed to drug sales, drug use, and other criminal activities:... Our urban core areas contain a growing number of men, mostly non-white, who become unskilled petty criminals because of no avenues to a viable, satisfying, conventional life (Golembeski & Fullilove, 2005, p.1703)

The fears felt by society create a harsh working environment for the offenders fortunate enough to obtain jobs. The mistrust of co-workers or customers harks back to what the British found about the need to avoid humiliation and save face. When approached in a manner that can be seen as disrespectful, a former inmate can find themselves responding in a way they have become accustomed to in prison. The response one gives in prison is far different than the response the public would consider appropriate.

The Aftermath

Many obstacles lie ahead of prisoners once they are released back into society, including recidivism. In this context “recidivism is the act of re-offending or relapsing into criminal behavior for a person who has been incarcerated” (McMahon, 2009, p.2). Some stricter definitions only call it recidivism if that person has committed the exact same crime. In essence returning to a life of crime is caused by the failure of reintegration into the community. The social status of an individual reflects highly on their likelihood to be incarcerated in the first place. That is why “prisons are filled with people from poor and disenfranchised communities, many of whom are already poorly educated and already suffer from limited access to health care and social services” (Steinberg, 2005, p.46). Making matters worse is the fact that with little or no education being provided, inmates leave the prisons as uneducated as they entered. This situation essentially puts them back where they started before prison. The four years an inmate spends in prison could have been used to get a GED; instead they end up just acclimating to a life of crime as the answer to their financial problems. According to Golembeski and Fullilove (2005):

After their release, many ex-inmates enter open society as poorly educated individuals; they lack both vocational skills and a history of employment. Many struggle with drug and alcohol abuse and physical and/or mental disabilities....most prisons lack programs for educating inmates, improving their job skills, or treating problems with substance abuse. (p.1702)

These problems make the poor neighborhoods the inmates originated from even worse when they return. Essentially it creates a community consisting of unemployed ex-cons with possible substance abuse problems and no real investment in the community.

Another blow to the community comes from the practice of redistrict-

ing that “pad[s] under populated districts by redrawing boundaries to include large prisons... typically increas[ing] the political power of rural areas where prisons are built and diminish[ing] the influence of the urban areas to which inmates eventually return” (Prisons, 2010). This process robs the poor communities of adequate funding that could be used to help provide better education and job opportunities. A saturation of former inmates can be seen in neighborhoods that have been denied adequate education programs or resources for its poorer residents. McMahan (2009) listed community programs like drug treatment, employment training and job assistance as programs that have proven to help with job placement for ex-offenders and reduce recidivism. Communities who were robbed by this redistricting have to hope the money provided for their budget is sufficient for basic needs because it is too late to fix this problem once the census has been finished. The community’s best hope comes in the form of a more adequate census count that can reflect the people in that community and provide them with the adequate programs necessary to help its residents.

The Long Run

The problems facing the prison system are daunting and cause much harm to the societies this system is designed to improve. That said, the truth of the matter is still not black and white. Stating that the prisons system is causing all of society’s problems is a post hoc fallacy. The cost it takes to build, manage and run a prison has drained funding that could be used for improving communities. A sad fact is that “during the 1990’s, federal spending on employment and training programs was cut nearly in half, and spending on correctional facilities increased by 521%” (Golembeski & Fullilove, 2005, p.1703). Improving schools and creating better social situations can encourage citizens to be more invested in their environment.

In the end it will take more than just funding of community projects and schools to improve the people who walk out of prison and back into the society. The first step could involve reinstating their rights to vote. Some states revoke voting privileges for former inmates permanently, while others allow them to earn it back through time served. Making returning voting rights to all former prisoners a priority could give them a voice that can be heard by the people making the laws. Politicians are chosen to represent the interest of its people, and when those affected by prisons speak loud enough, change can and should be expected.

In the long run it is important to note that the people in prisons are not animals, they are fathers, mothers, brothers, and sisters. They are your friends, your neighbors, your coworkers; they are you. They are human beings and deserve to be treated as such. Ruining countless lives is no way to teach society a lesson. On the path to repairing the penal system the first step gets the movement started, but only society’s desire to improve can determine how

far it will go.

References

- Anderson, K., Branegan, J., & Constable, A. (1982, September 13). What are prisons for? *Time*, pp. 1-10. Retrieved from <http://www.time.com/time/magazine/article/0,9171,951811-11,00.html>
- Gawande, A. (2009, March 30). Hellhole. *The New Yorker*, pp. 1-11.
- Golembeski, C., & Fullilove, R. (2005). Criminal (in)justice in the city and its associated health consequences. *American Journal Of Public Health*, 95(10), 1701-1706. Retrieved from Medline with Full Text database.
- Hammurabi, Code of. (n.d). Retrieved from *Funk & Wagnalls New World Encyclopedia* database.
- Kiltz, L. (2010). The link between jail industry programs and recidivism. *American Jails*, 23(6), 25. Retrieved from MasterFILE Premier database.
- Kluger, J. (2007, January 26). Are Prisons Driving Prisoners Mad? *Time*. Retrieved from <http://www.time.com/time/magazine/article/0,9171,1582304,00.html>
- McMahon, M. (2009). *Criminal recidivism*. Great Neck Publishing. Retrieved from Research Starters - Sociology database.
- Prisons, redistricting and the census [Editorial]. (2010, February 11). *The New York Times*. Retrieved from <http://www.nytimes.com/2010/02/11/opinion/11thu4.html>
- Steinberg, R. (2005). Unprotected: HIV Prison Policy and the Deadly Politics of Denial. *Harvard Journal of African American Public Policy*, 11, 43-49. Retrieved from Academic Search Complete database.
- Thompson, A. (2009). What happens behind locked doors: The difficulty of addressing and eliminating rape in prison. *New England Journal on Criminal & Civil Confinement*, 35(1), 119-176. Retrieved from SocINDEX with Full Text database.