Incarceration Rates in an International Perspective

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Summary

A nation’s rate of incarceration is the number of people incarcerated as a proportion of its total population. Internationally, there is broad variation in the degree to which nations incarcerate their citizens, with a nearly 40-fold difference between the highest and lowest rates. The incarceration rate is often interpreted as a measurement of the degree of punitiveness in a society, although it is an imperfect measurement. Factors that may influence these rates include rates of serious crime, law enforcement and prosecutorial decision making, scale of prison admissions, length of time served in prison, and other means of social control in a society.

Emerging scholarship is exploring the broader societal factors contributing to a nation’s rate of incarceration. These studies explore policy initiatives to prioritize incarceration as a means of crime control, degree of inequality in a society, racial assumptions about crime, and the cultural values of a nation. With the rise of mass incarceration in the United States, a body of research has developed that is assessing the limited public safety benefits and collateral effects of these developments. These counterproductive effects include impacts on family formation and parenting in high-incarceration communities, rates of civic engagement, and the fraying of community bonds and informal social control.

Keywords: incarceration, incarceration rates, crime rates, punishment, decarceration, mass incarceration

Subjects: Corrections

“The degree of civilization in a society can be judged by entering its prisons.”

Fyodor Dostoyevsky, The House of the Dead (1862)

Well over a century has passed since the great Russian author penned those words, and it remains true today that a great deal about a society is revealed by how it treats its most shunned citizens. With only a handful of exceptions around the world, the conditions of confinement in prison systems globally range from inadequate to torturous. Such situations play out both in industrialized and developing nations, and generally regardless of political ideologies or power structures. This state of affairs is truly a sad commentary on how little progress has been made in the past century and raises fundamental questions regarding the institution of the prison and its prospects for reform.

In the 21st century, another means of measuring the degree of civilization in a society is available, a nation’s rate of incarceration. At the most basic level the rate of incarceration indicates the degree to which a society prioritizes isolating its citizens from the broader community, with all its attendant consequences. A broad range of policies, politics, and power relations together
produce varying levels of imprisonment. But whether incarceration is viewed as the end product of either individual or societal failure, the rate of incarceration nevertheless provides us with an overall assessment of the scale of punishment that a society is willing to impose.

The framework for using rates of incarceration as an indicator of civilization is essentially an outgrowth of the idea that the severe deprivation of individual liberty by a state should only be employed when no other means will accomplish societal goals for public safety. Such standards are incorporated in a variety of national and international conventions and professional policies. For example, the European Convention on Human Rights states that no one shall be deprived of liberty unless certain conditions are met, including “when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so” (Macovei, 2004). Likewise, the American Bar Association standards state that “Sentences ... should be no more severe than necessary to achieve the societal purposes for which they are authorized” (American Bar Association, 1994).

This article is organized in three parts. First, an overview of what is being measured by a rate of incarceration is presented: What does this rate tell us, or not tell us, about a society? Second, a discussion is presented regarding the theoretical and analytical perspectives on understanding and interpreting incarceration rates. What are the structural determinants and what are the proximate dynamics that create varying levels of incarceration? Third, the article explores the ways in which “mass incarceration” in the United States has changed the impact of incarceration compared to its use at more modest levels. And finally, a discussion of the values that should guide us in determining the “right” level of incarceration in a society is presented.

**Measuring the Rate of Incarceration**

The most common, and relatively standardized, method of measuring a jurisdiction’s rate of incarceration is to calculate the number of people imprisoned as a proportion of 100,000 individuals in the total population. Thus, if a nation of 5 million people has 10,000 prisoners, the rate of incarceration is 200 prisoners per 100,000 individuals (i.e., 10,000 divided by 5,000,000 times 100,000).

The leading source of analysis of incarceration rates internationally is the *World Prison Brief*, published since 2000 by the Institute for Criminal Policy Research (formerly the International Centre for Prison Studies). The 2016 edition contains data for 221 nations. The range of incarceration rates is quite broad, from 799 per 100,000 in Seychelles and 693 per 100,000 in the United States to 16 per 100,000 in the Central African Republic and 21 per 100,000 in Liechtenstein. The *Brief* also breaks this information down by subpopulations, including numbers of women, juveniles, pretrial detainees, and foreign prisoners, as well as the number of prisons and prison capacity within a nation. For purposes of comparison, the *Brief* combines populations for all forms of incarceration. In the United States, for example, the bifurcated system of jails and prisons is combined to produce this total, whereas in most nations a single prison system houses individuals at all stages of the justice system.
Other bodies publish data on incarceration rates by region. In Europe, for example, the Council of Europe produces a SPACE publication, which provided data on 51 nations in 2014 (Council of Europe, 2015). This publication provides detailed data on number of prisoners, gender, length of sentence, use of preventive detention, changes in the criminal law, prison capacity, and other factors.

These various reports are critical for assessing the relative use of imprisonment in a regional or international context, but there are a number of caveats to such measurements. The definition of incarceration is not always as clear as one might wish. Even the categorization of the use of institutions designed to detain political prisoners varies across nations, often under the rubric of “reeducation centers” or other terminology. Similarly, involuntary confinement in mental hospitals may be employed when individuals present a danger to themselves or others, but it has also been a means of confining political dissidents. Even within penal institutions, there may be significant differences in the relative proportions of remand (pretrial) prisoners and those serving a sentence (Young & Brown, 1993).

Geographical variations in the use of incarceration within a nation can also be quite significant. For a variety of reasons, including the fact that law enforcement and court processing in countries such as the United States is largely a function of local government, incarceration rates may vary broadly within national boundaries (Lynch, 2011). In the United States in 2014, for example, the highest state rate of incarceration in Louisiana of 816 per 100,000 population was more than five times that of Maine, with the lowest state rate of 153 per 100,000 (Carson, 2015).

Another issue regarding the interpretation of incarceration rates relates to the use of a nation’s total population (including newborn babies and senior citizens) as the denominator in the measurement. While useful for comparative purposes, the inclusion of the very old and the very young in the calculation masks the actual experience of the at-risk population. In the United States, for example, sophisticated demographic breakdowns provided by the Department of Justice show that the overall rate of imprisonment in state and federal prisons in 2014 was 471 per 100,000 population, or approximately 1 in every 212 residents (Carson, 2015). By gender, however, the overall male rate is 890 per 100,000, 14 times the female rate of 65 per 100,000. But disaggregated by race, gender, and age, the rate of incarceration is 6,412 per 100,000 black males in the 30–34 year-old age group; a stunning 1 in 16 are imprisoned on any given day.

Variation in the interpretation of these rates can be identified in other areas as well. One such area relates to the age distribution of a given population. In developing nations, generally with shorter life expectancy than industrialized nations, a greater proportion of the population is clustered in the high-risk crime years, (World Health Organization, 2003), a factor that generally skews the rate of incarceration upward.

Limitations on Incarceration Rates as an Indicator of Punitiveness

The rate of incarceration provides one measure of the degree of punitiveness in a society, but it does not necessarily explain whether those levels reflect overall societal conditions and crime rates or the functioning of the criminal justice system. A key factor in this regard is that the
Incarceration rates are a broad brush indicator, but they do not take into account levels of crime, or the efficiency of law enforcement agencies in responding to crime (Pease, 1994). For example, an incarceration rate is more likely to be driven by violent or serious crimes than by lesser offenses (National Research Council, 2014). Therefore, while it might be assumed that if a given nation has a rate of incarceration 20% higher than another’s, it is more punitive. But what if it has a rate of violent crime that is 30% higher? In that case, the policies and practices in that system have combined to impose less punishment on persons convicted of crime (i.e., the rate of crime in a jurisdiction is not necessarily a primary explanation for its rate of incarceration, as discussed below).

Another factor that limits the utility of incarceration rates as an assessment of a nation’s approach to crime and punishment is the degree to which a nation employs social controls other than incarceration. To take an extreme example, during the period of slavery in the United States, the number (and rate) of black prisoners in the southern states was miniscule because, by definition, almost all African Americans were under the direct control of their owners. But even in modern societies, other means of social control, such as immigration and detention systems, need to be assessed. Within the criminal justice system, control is exerted through incarceration but also through community supervision under probation or parole. These latter systems are generally less severe in their restrictions, but they nonetheless place limitations on freedom of association, freedom of movement, consumption of alcohol, and a host of other behaviors. In the United States, states such as Rhode Island and Minnesota have very low incarceration rates by American standards, but conversely, they have high community supervision rates (Glaze, Kaeble, Minton, & Tsoutis, 2015).

This phenomenon is extreme in states such as Georgia, where the advent of private probation companies has produced staggeringly high rates of community supervision, more than triple the national average. Given the profit orientation of these companies and the monthly fees that offenders are charged to pay for their cost of supervision, strong financial incentives have been built into the system to keep individuals under supervision for as long as possible (M.S.L.J., 2015). As a result, the rate of community supervision in Georgia dwarfs that of any other state. Notably, the figures for Georgia include misdemeanor probationers supervised by private firms, which may include some double counting (Glaze, Kaeble, Minton, & Tsoutis, 2015).

Another area of social control relates to policing, including policies and practices that can inflict great harm on certain communities without necessarily resulting in imprisonment. In India, for example, Human Rights Watch reports that Indian street children are frequently viewed by police as vagrants and criminals, and therefore they are “routinely detained illegally, beaten and tortured and sometimes killed by police” (Ganesan, 1996). Similar allegations have been made against police in Brazil. In response to the killing of a police officer of an elite squad in the city of Belem in 2014, nine individuals were murdered over the course of a day by people believed to be off-duty law enforcement officers. According to the Wall Street Journal, in the Brazilian state of Sao Paulo, police killed 1 suspect for every 229 suspects arrested in 2012, compared with 1 per 31,575 in the United States in 2011 (Lyons, 2014).
Analyzing the Determinants of a Nation’s Rate of Incarceration

In recent decades, coinciding with the development of mass incarceration in the United States and rising rates in other nations, a broad range of scholarship has emerged that attempts to explain these trends. On the surface, the United States would seem to be an unlikely nation to become a world leader in this regard. As a wealthy nation with broad democratic traditions, such a system might otherwise be expected to have the means to address crime through preventive strategies as well as maintaining a healthy skepticism about expanding state power.

Broadly speaking, there are two strains of analysis of mass incarceration. The first is an area of theoretical work that examines superstructural frameworks in society, incorporating socioeconomic analyses and political control. That is, in what ways do power relationships in a society shape the formal and informal means of social control? Further, why did such societal arrangements become so prominent in the late 20th century, and what factors distinguish nations that moved in this direction versus those that did not? Because imprisonment in virtually every nation is disproportionately employed against the poor and minorities, why have some nations taken these dynamics to such extremes (Lynch & Verma, 2016)?

The second set of analyses of mass incarceration relate to the proximate causes of these outcomes. These assessments examine factors such as the relationship between crime rates and incarceration, political initiatives to “get tough,” drug control policies, and economic interests. Such deliberate policy choices can exert a strong effect on a nation’s rate of incarceration, frequently outweighing the impact of crime trends (National Research Council, 2014). Just as these policy decisions can result in sharp increases in the rate of incarceration, they can also produce rapid declines.

Review of the Literature

A number of scholars looking at comparative trends in the use of incarceration trace national differences to longstanding variations in political and cultural roots. James Q. Whitman (2003) explores such variation in the nature of punishment over the course of the past 200 years, comparing the United States with France and Germany. He describes how these European nations in the 18th century had two forms of punishment, a restrained maintenance of dignity for high-status offenders, and “degraded” treatment for commoners. In contrast, in the relatively egalitarian American social structure, both high- and low-status offenders were treated severely. As social class distinctions diminished in Europe, punishment was “leveled up” so that the lower status prisoners were afforded the treatment formerly reserved for the aristocracy, while the United States maintained its longstanding commitment to harsh punishment.

Examining the growth of imprisonment, and in particular the development of mass incarceration in the United States, scholarship in recent decades has explored the dynamics of how a political environment receptive to harsh punishment is created. Is this a function of pressure from below, which has been termed “penal populism, (Pratt, 2007)” or of elites advancing punitive policies as a strategy of social control or political domination?
Joachim Savelsberg (1994) theorizes that distinctions in political structures and the criminal justice system influence the degree to which knowledge is produced and crime policy becomes subject to public sentiment. In a comparison of the United States and Germany in the modern era, he proposes that a number of structural factors make the United States particularly susceptible to such populist pressures. These include direct election of judges and prosecutors, private media ownership, and frequent public opinion polling. In Germany, in contrast, decisions are made on bureaucratically produced knowledge, where decision makers and practitioners are more insulated from political pressures (Savelsberg, 1994).

These issues are explored further in the United States by Franklin Zimring and colleagues (2001), including an analysis of how penal populism contributed to such extreme measures as the “three strikes and you’re out” policy adopted by California voters in 1994. That policy required a mandatory life sentence for any felony conviction following conviction for two prior serious or violent crimes. The authors contend that forms of direct democracy, such as the ballot initiative that produced this policy, exacerbate the scale of punishment by offering a simple “yes or no” proposal that does not permit consideration of competing proposals and compromises normally inherent in legislative deliberations.

The impact of the rise of “penal populism” is explored both in the United States and four other English–speaking nations in the late 20th century by Julian Roberts and colleagues (2003). Examining the rise in imprisonment in these nations during a period of declining crime, they contend that this phenomenon is largely explained by changes in sentencing policy and practice, whether legislatively adopted through mandatory sentencing or judicial reaction to harsh public opinion. Lamenting that public opinion on crime is often misinformed, they nonetheless note that political leaders are often eager to exploit this sentiment for their own gain.

A broad-ranging framework for examining how a “culture of control” has developed in the United States and the United Kingdom in particular is offered by David Garland (2001). He traces how the philosophy of “penal welfarism” that characterized criminal justice policy prior to the 1970s fell into disrepute along with a more general critique of the welfare state itself. Along with rising crime rates and media sensationalism, the elevation of free market principles shaped a political environment in ways that increasingly emphasized expressive punishments while conceiving of the poor as an underserving underclass. This cultural shift exacerbated the tendency to think about crime through a lens of social control and reconceptualized prison primarily as a site of incapacitation and punishment.

Extending the critique of welfare retrenchment, Loic Wacquant (2009) contends that mass incarceration represents a neoliberal state response to rising social dislocation in a postindustrial economy and should be viewed as aligned with the punitive policy shift in the realm of social welfare. Penalization then becomes the preferred response of a state that has little interest in addressing fundamental sources of inequality.

Michael Tonry’s (2004) perspective on the development of mass incarceration in the United States is that evolving sensibilities—“the ethos or zeitgeist of a moment that influences but does not determine what most people think”—created an environment receptive to harsh policy
choices, and were ones that the public was predisposed to believe would be effective (p. 70). Spurred on by media attention to high-profile cases, he suggests that a series of moral panics developed that created an atmosphere of fear and vulnerability.

Other scholars examine the particular political conditions and movements that contributed to the development of mass incarceration. Jonathan Simon (2007) frames the American experience with mass incarceration as an outgrowth of “governing through crime.” Since the 1960s, a variety of decision makers—presidents and governors, legislators, judges, and law enforcement leaders—have developed politics and policies to challenge the New Deal political order by upending established governmental power relations. This shift built on and exacerbated fear of crime and insecurity. The result was the creation of a climate in which addressing crime became synonymous with support for law enforcement and increasingly harsh punishments, concomitant with growing hostility to the needs of defendants and those in prison.

Marie Gottschalk (2006) traces support for mass incarceration not only to such forces, but also to liberal social movements of the 1960s era that contributed to this outcome. For example, she argues that the feminist movement to address domestic violence and sexual assault found willing allies in “law and order” politicians and also played into racist stereotypes about black men and rape. In the case of the death penalty abolition campaign, she contrasts this situation with the abolition movement in Europe. Gottschalk contends that the American movement’s strategy involved procedural challenges to capital punishment, as opposed to employing a human rights framework that could have influenced the climate of punishment more broadly.

Racial and ethnic disparities in incarceration have been well documented in many Western nations, including the United States, the United Kingdom, and Canada, and similar disproportionate representation can be seen among Aboriginal people in Australia and Maoris in New Zealand. A number of scholars contend that the development of mass incarceration in the United States cannot be understood in isolation from the history of African Americans over several centuries.

Khalil Gibran Muhammad (2010) traces the linkage of blacks and crime to the 19th century. Whereas the incidence of white immigrant crime has been perceived in terms of individual failure, black crime has been portrayed as an indication of moral inferiority and a defining feature of black life. Such labeling, produced by social scientists, journalists, political leaders, and even black elites, has created an environment hostile to calls for expanded social welfare policies.

Michelle Alexander (2010) explores the astounding rates of black imprisonment in the United States in the context of centuries of racial control. Her concept of “The New Jim Crow” is premised on the assertion that “we have not ended racial caste in America, we have merely redesigned it” through policies including the war on drugs and restrictions on access to employment, housing, and public benefits for those with a felony conviction (p. 2). Sharon Dolovich (2009) extends this argument in noting how the carceral system broadly serves to sustain “the divide between mainstream America” and the “largely poor, young, black (and brown) men” whose isolation and management have come to be seen as socially and politically desirable (p. 256).
These divisions have become exacerbated in recent decades through what Jeremy Travis (2002) describes as the “invisible punishment” that is “accomplished through the diminution of the rights and privileges of citizenship and legal residency” (p. 17). A variety of civil disabilities, some of longstanding provenance, others evolving out of the “get tough” period, “operate largely beyond public view, yet have very serious adverse consequences” (p. 16). Travis argues that these punishments should be brought into public view, made visible in sentencing statutes and in the courtroom, and subject to rigorous evaluation and public debate.

Proximate Causes of Incarceration Rates

Fundamentally, the size of a nation’s incarcerated population is determined by two simple factors: How many people are sent to prison and how long are they kept there? But even such a basic calculation can be interpreted in different ways.

Consider a hypothetical case of the incarceration policies in two small nations. Nation A sends 100 people per year to prison for an average two–year term. Thus, on any given day there are 200 individuals behind bars. Nation B sends 200 people a year to prison, but only keeps them for a year on average. So, it too, houses 200 people in prison. Criminologists describe these distinctions as “stock” (number of people in prison) and “flow” (prison admissions, or the number of people who experience imprisonment).

In terms of an incarceration rate as a measure of punitiveness, which of these two nations is harsher? Nation A might appear to be harsher because it incarcerates people for twice as long as Nation B (assuming a similar mix of offense convictions and other relevant factors), but Nation B could be considered more punitive because it relies on prison as a sanction twice as often. The two countries may be considered equally harsh if the inquiry is limited to the number of incarcerated people at any given moment, regardless of how they came to be there. Any of these observations are clearly defensible, so drawing conclusions from this scenario merely emphasizes the importance of defining the question of concern.

Crime Rates and Incarceration

In assessing how nations use incarceration, a basic starting point is an examination of the relationship between crime rates and imprisonment. All things being equal, one would expect a higher crime rate (or higher rate of serious crime) would naturally result in a higher rate of incarceration. To the extent that that might be the case, such a nation may have a crime problem but not necessarily a punishment problem.

There is certainly some support for the contention that crime rates may be responsible at least in part for higher rates of incarceration, particularly for violent crimes. In most nations, for example, the vast majority of individuals convicted of homicide are sent to prison, and frequently for long periods of time (or at least for longer than for less serious offenses). A 2015 analysis of rising imprisonment in Western Europe concluded that “prison population rates are influenced by the evolution of the more serious offences” (Aebi, Linde, & Delgrande, 2015, p. 443).
Other scholars find the effect of crime rates to be much more limited. Warren Young and Mark Brown’s analysis of incarceration rates in a number of European nations and New Zealand and Australia concluded that “only a small measure of the differences in prison populations between one jurisdiction and another or the changes within prison populations within particular jurisdictions seem to be related to crime rates” (Young & Brown, 1993, p. 33).

Policy Shifts and Scale of Imprisonment

While it is the case that changing rates of serious crime can influence both the number of people admitted to and held in prison, such shifts are not the primary explanation for changes in rates of imprisonment. In its comprehensive assessment of the more than tripling of the state prison population rate in the United States from 1980 to 2010, a panel of distinguished scholars convened by the National Research Council concluded that the entire increase was due to changes in policy, rather than crime rates (National Research Council, 2014). Essentially, a broad set of policy changes resulted in both more offenders being sent to prison and staying there for longer periods of time, in almost equal measure. In addition to a sharp rise in the number of drug arrests nationally, changes included such initiatives as mandatory minimum sentencing, habitual offender statutes, and “truth in sentencing” policies generally requiring that certain offenders serve at least 85% of their sentence before release.

The significance of policies and practices that extend the length of prison stay on overall institutional populations can be seen in comparative international studies of incarceration. One striking finding in this regard is the variation in length of stay across nations and its consequent effect on overall rates of incarceration.

For example, in a comparative assessment of the severity of punishment across the United States, five European nations, and Australia, James Lynch and William Pridemore (2011) note that “the United States generally imposes longer sentences on persons sentenced to incarceration than other industrialized nations” (p. 34). For burglary offenses, the time served in the United States of 15.2 months is outpaced by Australia (21.4 months), but it is considerably longer than that of Scotland (4.1 months) and Sweden (6.4 months). Similarly, for robbery, the United States is also second to Australia among these nations (37.4 months compared to 40.9 months), but has substantially longer times served than Scotland (10.9 months) and the Netherlands (12.5 months).

Degrees of Punitiveness Among Nations

A key determinant in sentence length is the degree of punitiveness embraced by a society. That is, what is the scale of punishment that a society finds comfortable and/or necessary for its stated goals? How should a court system respond to an individual who has stolen a car for the third time, or who has been the lookout for a drugstore robbery, or who has assaulted his domestic partner? Most importantly, these determinations are rarely based on scientific evidence about the optimal
amount of prison time or community supervision required to achieve goals of sentencing that may include incapacitation, deterrence, punishment, or rehabilitation. Rather, they reflect the political and cultural sensibilities of the nation at hand and are subject to fluctuations over time.

Regarding public opinion on sentencing policy, harsh attitudes characterize the United States more than comparable nations. An international victimization survey covering 16 nations asked respondents what the appropriate sentence would be for a 21-year-old second-time burglar who had stolen a television set. A high of 56% of U.S. respondents chose prison, compared to an average of 34% for other nations, and in striking contrast to just 20% of respondents in Denmark, 19% in Finland, and 12% in France (Van Kesteren, Mayhew, & Nieuwbeerta, 2000). The degree of punishment employed in the United States can be observed by examining the top of the scale of severity, whereby the United States is virtually alone among industrialized nations in maintaining the death penalty as a sanction (Death Penalty Information Center, 2016a). Japan employs the death penalty as well, but the number of persons sentenced to death and executed annually is generally in the low single digits (Amnesty International, 2016).

In the United States in 2016, more than 3,000 persons were awaiting execution in the 31 states that permit this penalty. Following the 1976 Supreme Court decision in Gregg v. Georgia, which upheld the imposition of capital punishment through a bifurcated process of adjudication and sentencing, more than 1,400 persons have been executed (Death Penalty Information Center, 2016a). Notably, both public and practitioner support for the death penalty has been in decline in the 21st century. From a recent execution peak of 98 in 1999, the numbers had declined to 28 by 2015, with 86% of these in just three states, Texas, Missouri, and Georgia (Death Penalty Information Center, 2016b).

Nevertheless, with the death penalty at the top of the scale of punishment in the United States, there is an inexorable upward pressure on sentencing for all offenses. Because sentencing systems are proportional by nature—murder is punished more harshly than robbery, which is punished more harshly than burglary, etc. The severity of punishments is affected by the relative degree of punitiveness for the most severe crime (American Law Institute, 2011). Indeed, an analysis by Rick Ruddell (2005) of 100 nations found a strong positive association between retention of the death penalty and rates of incarceration.

In the United States, the death penalty is virtually unique among industrialized nations, as is the expansive prevalence of sentences of life imprisonment. As of 2012, 159,000 people were serving such prison terms, representing one of every nine people in prison (Nellis, 2013). About a third of this total are serving life without the possibility of parole, and of the population eligible for parole, this form of release has become increasingly more difficult in recent decades due to “get tough” political initiatives of governors, legislatures, and parole boards.

In contrast, most European nations employ life imprisonment, and certainly life without parole, quite sparingly. Nine member nations of the Council of Europe have no provisions for a life sentence, and 32 nations allow a life sentence but with a fixed term of years after which the individual can be considered for parole. The range of these terms is generally between 7 and 25 years. Only five nations make no provision for parole of life-sentenced prisoners, and six others
prohibit parole release for some categories of offenses (Appleton, 2015). In addition, many Latin American nations—including Brazil, Costa Rica, Columbia, El Salvador, Peru, and Mexico—have banned any form of life imprisonment (Henry, 2012).

The variation in the harshness of sentencing among nations can be quite broad. In Norway, for example, the maximum punishment for an offense is 21 years in prison. Thus, Anders Breivik, an anti-immigrant terrorist convicted of killing 69 young people at an island political retreat, along with eight others, in 2011, received the maximum sentence of 21 years in prison (Kriminalomsorgen, 2016). Such sentences can be extended by 5 years at a time if the offender is assessed to pose a public safety threat near the expiration of sentence. To place some perspective on the scale of punishment, a sentence in the range of 20 years is not necessarily unusual in the United States, even for a drug offense where no physical harm resulted to an individual.

**Economic Factors Influencing Incarceration**

A variety of other factors may influence a jurisdiction’s rate of incarceration as well. The 1980s ushered in the era of the private prison industry, initially focused on earning profits from the rapidly expanding U.S. prison system, and then spread to at least ten other nations. As of 2011, these systems imprisoned as much as 19% of the prison population in Australia and 17% in Scotland (Mason, 2013).

Although private prison companies contend that they are merely responding to, and not causing, the demand for new cells, there is evidence that they have in fact contributed to rising rates of imprisonment. In the area of immigration detention in the United States, a heavily privatized sector, representatives of the industry worked closely with legislators in the state of Arizona in 2009 to develop a bill widely perceived to be anti-immigrant and anti–Hispanic through granting law enforcement officers broad powers to stop motorists on suspicion of being noncitizens (Carter, 2012). The presence of the industry also makes it easier for lawmakers to expand prison systems by bypassing the normal process of securing government funding. By essentially renting cells from private vendors, a jurisdiction avoids having to raise capital funds for construction, which in many cases circumvents the necessity of gaining voter support for such projects.

In the United States, an additional economic factor driving incarceration has been the growing tendency to locate prison facilities in rural areas. Prison officials have long sought to do so, in large part due to lower real-estate prices, but with the stepped-up pace of prison expansion, this trend has been exacerbated. In many such communities, prison expansion has been seen as an economic development strategy designed to respond to declining employment opportunities in manufacturing and other industries. Although research to date has generally not identified long-term benefits to local communities (Hooks, Mosher, Genter, Rotolo, & Lobao, 2010), legislators in distressed rural communities have nonetheless actively sought new prison construction in their home districts. Many of these policymakers have also been key sponsors of punitive sentencing legislation that would result in higher demand for prison bed space. In addition, as prison populations have begun to decline in some jurisdictions, there has been growing resistance to closing institutions that are no longer needed, in order to protect rural prison employment.
Policy Initiatives to Support Decarceration

While political initiatives to “get tough” on crime have frequently led to rising prison populations, conscious policy shifts can also produce decarceration. Perhaps the two most notable examples of nations that have moved in such a direction in recent decades are Finland and Germany.

In the 1950s, the Finnish rate of incarceration of approximately 200 per 100,000 was four times that of other Scandinavian nations (Lappi-Seppälä, 2001). Leading officials in the country became concerned about this vast gap and initiated a series of reforms over several decades. By the 1990s, the Finnish rate was the same as that of its neighbors. Tapio Lappi-Seppälä traces these changes to an evolving ideology critiquing the notion of “coercive treatment” across the Nordic nations beginning in the 1960s. This philosophy led to declining faith in the power of criminal law as a means of social control, and resulting policy shifts included the decriminalization of public drunkenness, restrictions on the use of preventive detention, increased use of conditional sentences, and reduced penalties for theft. Despite a reduction in the rate of incarceration by more than half over a 40-year period, a comparison of crime trends in the four Nordic nations during this period showed a “striking similarity” among them (Lappi-Seppälä, 2001, p. 121).

A similar initiative was undertaken in West Germany during the period of rehabilitative optimism in the late 1960s. Legislation adopted in 1969 placed a heavy emphasis on the use of noncustodial sentences whenever feasible (Weigend, 2001). Measures included in the new law abolished prison sentences of less than one month, discouraged sentences of less than six months, and decriminalized many traffic and public order offenses. As a result, the number of prison admissions dropped dramatically from 136,000 in 1968 to 35,000 in 1976. The prison population decreased by 25% during this period. Although the number of prison terms imposed remained steady for the next two decades, the prison population then steadily increased, reaching its pre-reform level by the mid-1990s. An analysis of this increase suggests that the sharp reduction in short-term sentences was subsequently outpaced by an increase in sentences of two years or more.

Court decisions have, on occasion, resulted in substantial shifts in rates of incarceration as well. In the case of Brown v. Plata in 2011, the U.S. Supreme Court found that the level of overcrowding in the state of California was unconstitutional due to the inability of the state to provide an adequate level of health care in its facilities (Brown v. Plata, 563 U.S. 493, (2011)). Consequently, the Court ordered the state to reduce its prison population to 137.5% of design capacity within two years, representing a population reduction of more than 30,000. The state was able to comply with the order, in large part through a policy of Realignment, which generally directed that persons convicted of nonviolent offenses or parole violations no longer could be sent to state prison but instead would be supervised either in local jails or under probation. The initial results of the shift indicated no adverse effects on crime rates other than a modest increase in auto theft (Lofstrom & Raphael, 2016). An early assessment of how the population reduction affected overall decarceration, whether counties merely shifted incarceration to local jails, concluded that factors associated with decarceration “do not precisely mirror those of incarceration,” suggesting the need for further exploration of these dynamics (Verma, 2016, p. 132).
Impact of High Rates of Incarceration

In recent decades, substantial increases in the use of incarceration in many nations have occurred, resulting in extreme cases of “mass incarceration.” Imprisonment clearly is a profound life experience for the person who is incarcerated. But in societies that have produced particularly high levels of incarceration the impact of prison goes well beyond the individual and now affects his or her family and community in diverse ways. In the United States in particular, a growing body of scholarship is addressing these issues (Mauer & Chesney-Lind, 2002).

A first line of inquiry regarding the impact of high rates of incarceration concerns the effect of such developments on crime rates. The policies that have led to mass incarceration have generally been promoted with the rationale of addressing crime. This shift has variously been framed as being accomplished through general deterrence—“sending a message” to potential offenders—or incapacitation—“locking the door and throwing away the key.”

While incarceration certainly has some effect on crime—if nothing else, through incapacitating high-rate offenders for a period of time—it is increasingly clear that high rates of incarceration produce diminishing returns for public safety. There are a number of reasons why this is the case. First, as the number of people imprisoned rises, there is a general tendency to lock up increasingly less serious offenders. For example, in a prison system of modest size, a justice system concerned with burglary crimes would likely target its resources to incarcerate high-rate offenders. But with an expanded availability of prison cells, no such prioritizing is necessary, and there is room to imprison both high-rate and low-rate offenders.

A review of data in the United States illustrates the significance of this factor (Canela-Cacho Blumstein, & Cohen, 1997). Researchers examined self-reported inmate data on frequency of offending in three states compiled in the late 1970s compared to offending rates of free offenders. They found sharp differences in the offending frequency of the two groups. Free robbery offenders reported committing an average of one to three robberies per year and free burglary offenders reported two to four burglaries annually, while incarcerated offenders reported offending rates 10 to 50 times higher. Thus, the incapacitation effect of expanded incarceration would be substantially lower because so many fewer offenses would be “prevented” as a result. Notably, these data are from the early years of the development of mass incarceration in the United States; therefore, the dramatic increases in prison populations in succeeding decades almost certainly produced substantial diminishing returns for public safety.

A second factor that limits the effect of incarceration on crime is the length of time spent in prison. For sentences of ten years or more, any crime control impact is offset by the “aging out” of crime process. Cross-national research shows that rates of engagement in criminal behavior, particularly for males, rise sharply in the late teenage years but then decline fairly rapidly by the mid- to late twenties (Weitekamp & Kerner, 1994). Thus, incarcerating offenders well into their thirties, forties, or fifties produce successively reduced gains for public safety. Clearly, corrections and parole officials need to make individualized determinations of risk, but as an overall policy matter, long prison terms certainly produce diminishing returns.
A comprehensive assessment of these issues in the United States was undertaken by the National Research Council. In their 2014 report on the causes and consequences of high rates of imprisonment, the panel concluded that the magnitude of the crime-reducing effect of incarceration was uncertain but that “the evidence suggests that it was unlikely to have been large” (National Research Council, 2014, p. 155).

Scholars have also addressed the potential counterproductive effects of high levels of incarceration. One such line of inquiry explores these effects in high incarceration neighborhoods, those in which a substantial portion of the population is imprisoned at any given moment. A study by Todd Clear and colleagues in Tallahassee, Florida found that at modest levels of incarceration there was a positive effect in reducing crime, but at higher levels the impact was actually counterproductive and contributed to increases in crime (Clear, Rose, Waring, & Scully 2003). They attribute this effect to the diminishing of informal social control mechanisms that serve to establish social norms and create bonds among family and community members.

Another effect of high incarceration relates to its impact on family formation and child rearing. In Donald Braman’s examination of the geographic disparity in imprisonment, he finds that in highly affected neighborhoods in Washington, D.C., there are only 62 adult men for every 100 adult women (Braman, 2002). Some of the “missing” men have died or are serving in the military, but many are incarcerated. Thus, the ability of women to find marriage and parenting partners is considerably diminished. Similar effects have been documented for increased rates of sexually transmitted infections and teenage pregnancies in areas of high rates of incarceration (Thomas & Torrone, 2006). These alterations come about due to imbalances in gender ratios, disruption of social networks and cohesion, and the resulting impact on community norms.

High rates of incarceration also adversely affect socioeconomic conditions in low-income communities of color. This conversion begins with the effect on wage earnings for people with a prison record. A review of the literature by the National Research Council finds that although the research does not uniformly find negative employment outcomes, “The balance of quantitative results points to the negative consequences of incarceration for employment” (National Research Council, 2014, p. 247), with studies frequently finding reductions in employment outcomes of 10% to 30%.

For the nation as a whole, economic output in the United States is likely to be affected through the “hidden unemployment” of those who are incarcerated as well as underemployment of those with felony convictions. A study of 2008 economic data estimated that due to poor employment prospects for individuals with criminal records the male employment rate was reduced by 1.5% to 1.7% that year, and that GDP output was reduced by $57 to $65 billion (Schmitt & Warner, 2010). Finally, incarceration at any level raises issues of opportunity costs and questions of whether alternative investments of resources would produce different outcomes for public safety. This effect, as well, is exacerbated in nations with a high level of incarceration, where one can expect to see diminishing returns for public safety on a far larger scale than for nations with lower rates. A variety of research demonstrates that social intervention and substance-abuse treatment programs frequently produce more substantial public safety outcomes than does expanded imprisonment (Weisburd, Farrington, & Gill, 2016).
A Rational Rate of Incarceration

Given the wide variation among and within nations, the “right” rate of incarceration for a given nation remains debatable. The answer essentially depends on the goals of a particular society.

Just prior to the historic rise of the prison population in the United States, criminologists Alfred Blumstein and Jacqueline Cohen theorized that a society develops a “stability of punishment” that reflects its norms and reinforces social solidarity. Following the work of Durkheim and Erikson, and using data from the United States and Norway over several decades, they contended that “society tries to impose a fairly constant level of punishment” and that “the behavior it punishes responds to shifts in the behavior distribution” (Blumstein & Cohen, 1973, p. 207).

That article was published in 1973, the first year of the four-decade prison increase toward mass incarceration. These developments offer a strong challenge to the “stability of punishment” framework, but this conclusion may be misguided. Just as Blumstein and Cohen noted differences in the punishment thresholds between the United States and Norway, societies may evolve over time and establish societal norms that support greater or lesser scales of acceptable punishment. Pierre Tremblay suggests that “the stability hypothesis does not explain why penal evolution experiences normative revolutions. It does not deny that such normative revolutions occur; it claims only that the rate of punishment will be stable before and after these revolutions take place” (Tremblay, 1986, p. 177).

The late criminologist Nils Christie posed questions along these lines, focused on how much punishment a society should choose to impose. “When has a prison population in a country reached a level when at least our intuition says that this is wrong, completely wrong, unacceptable!” (Christie, 2004, p. 102) He answers with reference to basic human values, stating that if we believe in the values of kindness and forgiving, in keeping civil societies civil, and in living in cohesive, integrated societies, “then we ought to keep the institution of penal law a small one” (Christie, 2004, p. 105).

Further Reading


**References**


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