

AN ANALYSIS OF THE UNINTENTIONAL BUT INEVITABLE CONSEQUENCIES OF IMPRISONMENT AND HOW THEY HAMPER THE PROCESS OF PRISONERS REINTEGRATION BACK TO THE SOCIETY

Kaguta Ruth Joyce Nyawira

MOI University, Kenya Tel: ++254713362963

E-mail: kagutajoy@yahoo.com

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Abstract

Most scholars have concentrated so much on studying the impact and consequences of imprisonment and little effort has been focused on the hidden ramifications of imprisonments. These are unintended but unavoidable consequences of imprisonment, they are not often foreseen at sentencing but have a tremendous impact not only on the offender, but also on families, communities, and on the nation as a whole. They make it difficult for the offender to be resettled back in to the community after the completion of the imprisonment period. This paper therefore recommends the utilization of alternative to imprisonment as a cure for the offender's inability to fit and be reintegrated back to the society after imprisonment.

Keywords: Imprisonment, Unintentional and Unintended Consequencies, Reintegration

Introduction

Prisons are visible embodiments of society's decision to punish criminals. As we punish more people the number of prisons increases. We can count how many people are in prison, measure the length of the sentences they serve, determine what we spend to keep them there, and conduct empirically grounded analysis of the costs and benefits of incarceration. Because prisons make punishment visible, we can easily quantify the policy debates over the wisdom of this application of the criminal sanction. Not all criminal sanctions are as visible as prisons: we punish people in other, less tangible ways (Travis, J., 2002). Mostly this kind of punishment results from the violations of human rights and privileges which is common in most prisons. These punishments are invisible and unintended in the sense that they come about as a result of the operations of the law (Ibid, 2002). Therefore, this paper aims at filling a lacuna in terms of literature on an area long forgotten. In order to fulfill this objective, this paper will address the following questions:

1. What are the Unintentional but Inevitable Consequencies of Imprisonment?
2. How do the Unintentional but Inevitable Consequencies of Imprisonment hamper the process of ex-offenders reintegration?
3. What are the possible alternative ways of correcting women offenders?

The Unintentional but Inevitable Consequencies of Imprisonment

Prisons in Kenya have been charged with the responsibility of correction and rehabilitation of offenders. The problem of rehabilitation and reconciliation of the offenders with their victims and the society at large has hitherto remained unaddressed. As a result, prisoners serve their prison term and when they are released and taken back into society they suffer shock, rejection, stigma and discrimination and subsequently most of them revert back to crime and end up back in prison as their place of choice. For them, prison gates have become like revolving doors releasing those who have served their terms only to return back on similar or worse crimes. Unconfirmed reports

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indicate that the rate of recidivism in Kenya has hit 50%. If this is anything to go by, it is clear evidence that criminal justice system focusing on determining the guilt of an offender and then imposing a sentence has not been very effective in curbing crime. Imprisonment is cruel and unusual punishment — not for its intent, but for its unintended consequences, for men and women are sentenced to face not only deprivation of liberty, but also, in many cases, unclean conditions, lack of privacy, cramped living quarters in close proximity with other offenders, and periodic assaults and rape with immeasurably devastating impacts. Administrative corruptness and laxness of the guards can also yield cases of severe medical mistreatment or neglect and physical and sometimes sexual abuse by the guards, fostering a pervasive hatred for “the Man” who has dumped the prisoner into this hellhole. Perversions of physical and social life in prison do not make for a balanced and health physical and social life after release. In most countries punishment for the original offence is no longer enough; one’s debt to the society is never paid. This is referred to as “internal exile” these punishments have become instruments of “social exclusion”; they create a permanent diminution in social status of convicted offenders, a distancing between “us” and “them”. Mostly, the poor, minorities are denied certain rights such as right to employment (Travis, J., 2002). In democratic countries one is sent to prison as a punishment but not for punishment. The very removal from the society is considered a punishment enough. In Kenya however, one is sent to prison both as a punishment and for a punishment that is more severe than one’s removal from society Koigi wa Wamwere, (1997). Prison food is badly cooked, lacks any nutritional value and is eaten at the most abnormal hours. In prisons one does not have a right to medically prescribed diet-leave alone a diet which is permitted by prison rules but forbidden by prison authorities. Even the food rations allowed are not a right. Despite food shortages, sugar, bread, butter, tea, coffee, eggs and fruits are all contrabands. Emaciation, malnutrition and even kwashiorkor are common in prison. Prisoners are expected to buy their own drugs or die of untreated diseases as many prisoners have already done. Prisoners suffer the humiliation of being denied their humanity. They lose control over their lives and become robots in the hands of prison authorities. As such prison authorities direct them in everything they do: “it is time to wake up.” “It is time to go in.” “Go to church.” “It is time to sleep.” “It is time to work.” “Strip now.” “Put on your clothes.” “Work.”. Prison warders may stop the prisoners any time; strip them naked, search for contraband. Their hair is shaved, put on prison uniforms which are meant to debase and humiliate the prisoners. Women in prisons, especially mothers, have particular physical, vocational, social, legal, and psychological needs different from those of men. International standards, applied with gender sensitivity, can ensure that they are treated appropriately and provided with acceptable conditions of imprisonment. Women in cultures where imprisonment is regarded as particularly shameful generally receive fewer visitors than men. The family may reject the woman or be unaware of where she is being detained. Her male relatives may have been killed or displaced, or may have simply disappeared. Her husband may remarry. Yet visitors are essential for a detainee’s psychological wellbeing and are a way to obtain food, medicine, and other necessities when resources are scarce and adequate supplies are not being provided by the authorities ICRC, (2008).

How the Unintentional but Inevitable Consequences of Imprisonment has hampered the process of ex-prisoners reintegration

A number of unfortunate collateral consequences are likely to occur as a result of imprisonment, including increases in child abuse, family violence, the spread of infectious diseases, homelessness, and community disorganization. Prisoners, especially those who have been incarcerated for long periods, often find it difficult to readjust to life in the community. Therefore, prisoners release under any circumstances must provide a means whereby a prisoner may make a smooth transition from prison life to living in the community. With

some degree of supervision and preparation this will reduce the incidence of criminal behavior and recidivism, while at the same time ensuring the safety of our communities. It is what the prisoner experiences in the prisons; how they attain satisfaction, and how they avoid its detrimental effects through the adjustment process known as prisonization that ultimately decides how, if ever, they will emerge. It has also been recognized, through simulations of prison environments, that lockups and isolation have the habit of dehumanizing prisoners by making them feel anonymous, and breeding ill feelings because of their rejection and condemnation by society as a whole. The implications of the psychological effects of incarceration for parenting and family life can be profound. Parents who return from periods of incarceration still dependent on institutional structures and routines, and cannot be expected to effectively organize the lives of their children or exercise the initiative and autonomous decision making that parenting requires. My basic argument is that paternal incarceration increases the risk of child homelessness indirectly by destabilizing already-fragile familial finances, decreasing children's access to institutional and informal supports, and diminishing maternal capacities and capabilities. Although maternal incarceration also likely damages family life in similar ways Kruttschnitt, (2010), I argue that having a mother incarcerated will negligibly increase the risk of child homelessness because state interventions into the lives of the children of incarcerated mothers push children into foster care instead Swann and Sylvester, (2006). The majority of inmates leave prison with no savings, no immediate entitlement to unemployment benefits, and few job prospects. Thus, paternal and maternal incarceration leads children into different, but parallel, forms of marginalization. In addition, incarceration is associated with elevated risks of marital dissolution (Apel et al. 2010; Lopoo and Western 2005; Massoglia, Remster, and King *Forthcoming*) and diminishes the quality of the relationships between parents, regardless of whether they are romantically involved Edin, Nelson, and Paranal 2004; Nurse 2002, 2004; Swisher and Waller, (2008). Since paternal financial contributions are shaped by their earnings and their relationship with the mother, it is unsurprising that incarceration diminishes paternal financial contributions to family life Geller, Garfinkel, and Western, (2011). Even after release from the prison, women find themselves imprisoned as a result of cultural practices or traditions rather than codified laws. One recent review concluded, "former inmates wind up with no place to go because of inadequate prerelease preparation, fragile finances, severed social relationships, and barriers posed by their stigmatized identities when seeking employment and housing" Lee et al. (2010). It is unclear how often incarceration results in the loss of institutional supports, but the consequences of losing those resources may be catastrophic. This is especially the case since the families of incarcerated men tend to withdraw from social networks in ways that make them less able to rely on informal supports should they need to borrow money to make rent or somewhere to stay following an eviction. As Braman (2004:171) notes, "perhaps the most significant Employers are increasingly reluctant to hire ex-offenders. A recent survey in five major U.S. cities revealed that 65 percent of all employers said they would not knowingly hire an ex-offender (regardless of the other problems related to life after prison, and these in turn are risk factors for other kinds of crime and violence. Confinement applies that the prisoner is not trusted or respected therefore s/he should not be able to move freely amongst other citizens (Johnson, 1996). This affects his ability to get a job. Johnson, R. (1996). Inmates are particularly prone to spread disease (especially such conditions as tuberculosis, Hepatitis, and HIV), and thus pose public health risks McDonald, Douglas C, (1999). Major multidrug-resistant form of T.B emerged in 1989, with 80 percent of the cases traced to jails and prisons. By 1991, New York's Rikers Island Jail had one of the highest TB rates in the Nation. In Los Angeles, a meningitis outbreak in the county jail spread to surrounding neighborhoods. This situation could be worse in Kenya bearing in mind that health facilities for prisoners are almost inexistence. According to a study conducted by KNHRC, (2009) hundreds of prisoners died

annually from infectious diseases spread by overcrowding, unhygienic conditions, and inadequate medical treatment. During the year, according to the commissioner of prisons, 218 prisoners died from diseases while incarcerated. In August 2009, 18 prisoners died of suspected tuberculosis and pneumonia in Kodiaga Prison in Kisumu. Medical care for those with tuberculosis was poor, and patients with tuberculosis or HIV/AIDS were not given supplemental food to assist in the digestion of their medication. Medical care in prisons for the general population was poor, although courts generally granted requests for referral to hospitals in serious cases. However, administrative delays, such as transport, often delayed court-ordered hospital attention. These punishments subvert reintegration goals by forcing returning prisoners to carry the stigma of past mistakes well beyond the prison gates. Consequence of stigma among families of prisoners...is the distortion, diminution, and even severance of social ties.” Since the removal of these vital supports diminishes mothers’ ability to respond to shocks in family life by relying on kith and kin, this may be yet another mechanism through which paternal incarceration would increase the risk of child homelessness.

What are the possible alternative ways of correcting women offenders?

In 2002, the Government of Kenya mounted massive penal reform with the aim of rehabilitating offenders. The country witnessed an extraordinary burst of criminal justice reforms such as improving the conditions and welfare of the prisoners, introduction of the open door policy to allow members of the public to visit prisons, improving education and vocation training within the prisons among others. However, all this does not seem to bear much fruits in terms of reducing crime rates and the level of recidivism. This shows that for the offenders to be reintegrated properly back to the society he must retain all his rights and attribute as a citizen and human being. This calls for alternative ways of dealing with criminals apart from imprisonment. Overall, there is also a growing consensus that community-based approaches are becoming extremely important in shaping corrections, for a variety of reasons. For one thing, community corrections can prove to be more cost-effective, more humane, giving more power and trust to the individual and thus allowing her a possible path to recovery and reintegration into society. Such programs thus have the capability of reducing recidivism rates. Because returns to crime are strongly linked to the inability to assimilate into society, and because a deficit in employment opportunities has been cited as a strong contributing factor, community programs can aid greatly in building a sense of efficacy in society as well as opening up opportunities for inmates to rejoin society. What all of these programs hold in common is the determination to treat inmates as individuals capable of contributing to society constructively. One way is to improve prisons themselves by making them “more normal” by giving prisoners freedom within the walls to do what they want to do, by replacing an atmosphere of violent punishment with a more positive environment, much like a normal society. Opportunities must be given for inmates to be constructive and to express their autonomy, and to have enough space to build a sense of personal security. “As things stand today,” Johnson writes, there are several successful programs that can also help to build security and self-efficacy, such as work-release programs, a system for conjugal visits, and educational, vocational, and psychotherapeutic programs, Johnson (1996). A second approach is community-based alternatives, which provide a bridge between the community and the insulated world of the prison. Halfway houses, probation, parole, boot camps, restitution centers, community service sentences, pre-trial interventions, and many other small but innovative programs.

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