

# The effectiveness of punishment compared with the effectiveness of rehabilitation...

[Law](#), [Criminal Justice](#)



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dates and time

Part of each country's criminal justice system is to both punish and try to rehabilitate offenders, either convicted in prison or under community supervision, so they can return to the society and be integrated with it in the smoothest and most effective way. Actually, punishment and rehabilitation are part of a four-objective criminal system that also includes deterrence, which alongside punishment and rehabilitation will be further researched throughout this paper in terms of which is more effective. The aforementioned objectives will be discussed taking into consideration the effect they have on the victims and their families, the offender as well as the social and fiscal effect on society.

Although punishment is the prime goal in the United States criminal justice system, when dealing with offenders, theorists over the years have argued of its effectiveness, compared to rehabilitation. Nevertheless, there are states

within the US that use rehabilitation as their main approach, like Connecticut and Massachusetts; others use only punishment, like Texas, while others opt in for a combined approach of both rehabilitation and punishment, like Michigan (DeLuca, Miller and Wiedermann, 1991 par. 6). As of now, though, there is no prison facility that actually uses “incarceration as a short period of punishment followed by a long period of community-based rehabilitation and strict supervision” (DeLuca, Miller and Wiedermann, 1991 par. 6).

Cesare Beccaria, one of the authors of Classical School of Criminology, whose theories were based on utilitarian philosophy, argued that if crime offenders were punished with a penalty of proportionate severity to the crime they had committed, they can as well be prevented from throwing themselves in criminal activity again (1764). Consequently punishment creates deterrence, which opposes to the completely different theories used by the Positive School of Criminology that treats every criminal offense as a deriving consequence of both external and internal factors that the offender is unable to control (Carsten, 1972). For that reason, rehabilitation is a more preferred approach that helps in reducing recidivism.

## **Deterrence of Crime**

As mentioned before, deterrence is part of the criminal justice system of almost every country. It is divided in two categories, those of specific deterrence that targets in imparting the offender with fear, to prevent future attempts for any criminal behavior, and general or indirect deterrence that focuses on imposing penalties and punishments to an offender in order to create societal fear and prevent others from committing any similar crime as

the one the offender has been penalized for. A sub category of the specific deterrence is incapacitation, according to which crime offenders are put in prison as a means to be discouraged and unable to commit criminal acts again, thus they are taken away the ability to engage in an offense.

Based on the research conducted and published by the Bureau of Justice Statistics, in 1989, the most common form of punishment is incapacitation, yet, “ Research demonstrates that recidivism amongst convicted felons following release from prison is as high as 63% and that most prison inmates had arrest records and convictions prior to their current offense” (Bellevue University), which means that punishment via incapacitation cannot be considered a permanent fix to crime, since it is imposed only at the time period the offender is behind bars. Now, in cases where the punishment is life sentence and death penalty a great deal of controversy has been created, in regards to the effectiveness of the those two punishments to deter crime. If one takes a deeper look into the very heart of the criminal system, it is for sure that they will identify numerous factors that affect the effectiveness of punishment, in its any form. Indicatively, an offender sentenced to death can not only appeal but also argue for the total amount of time they sit on death row.

Trying to deter crime by rehabilitation through community supervision can become a more permanent, more long-lasting and effective solution, given the fact that the offenders manage to incorporate with the rest of society, perhaps by gaining trading capabilities, and enhance their academic skills , with the help of various programs that are specially created for that reason. That way, incarcerated offenders can be assisted in finding a job again and

gradually become part of a community that welcomes them and makes them feel they have somewhere to belong.

Another way to rehabilitate and deter future crime is by therapy, which could include drug therapy or psychotherapy for violent-offenders, those with drug addictions and those that have experienced trauma in some part of their lives, especially their childhood. “ Cognitive behavioral therapy reduces recidivism in both juveniles and adults” (Clark, 2010); by attempting to change the way offenders think, it might be possible to prevent them from criminal activities and behaviors (Clark, 2010). Most programs using cognitive behavioral therapy, target in improving the offenders’ “ social skills, means-ends problem solving, critical reasoning, moral reasoning, cognitive style, self-control, impulse management and self-efficacy” (Clark, 2010) and based on research, findings show an increase in criminal recidivism when punishment and deterrence was used, while therapeutic approaches demonstrated a tendency to reduced further criminal behavior (Milkman & Wanberg, 2007).

### **Effect on victims, and victims’ families**

It is widely known that the courts are obliged to give the accused their Constitutional rights, such as the right to counsel and the right to speed a trial. However, this can overshadow the rights of the victim and in many cases those rights are perceived as an obstacle in the criminal justice system and victims alongside their families are rather an inconvenience in the entire process, while there are not few cases that victims and/or their families are practically thrown out or were even obliged to stay out of a court room. Such

behaviors only make victims feel they re-experience the crime that brought them to courts in the first place.

However, while under the governance of President Bush, the Crime Victims' Rights Act that was passed in 2004, finally granted federal-crime victims with fundamental rights that placed a protective shield around them against the offender and made it easier for them to last through the trial. The Act grants crime victims, " the right to be treated with fairness and with respect for the victim's dignity and privacy", and " the right to reasonable, accurate, and timely notice of any public court proceeding or any parole proceeding involving the crime, or of any release or escape of the accused" (ojp. usdoj.gov), among others.

Community supervision is a preferred means to rehabilitate after an offender is punished and it appears appealing to both crime-doers and victims of crime. For the sake of rehabilitation, a community-based panel, called Victim Impact Panel serves as restorative-justice and allows crime victims, and/or their families in cases the victim has deceased, to express their feelings and the impact the particular criminal activity had on them. For that reason, they meet with the defendant after conviction and the whole idea of the panel lies within the fact that if an offender faces their victim and/or their family after conviction, there is strong chance the first will be deterred and avoid re-committing the criminal activities that brought them to conviction and has caused people a great deal of pain and sorrow.

A vast majority of societies believe that future crimes are more likely to be prevented via incapacitation, and about 70 per cent think that criminals get less harsh penalties and punishments that supposed and deserved, which

consequently causes the victims and their families' great stress on both emotional and financial level, in cases restitution is not implemented (Sourcebook of criminal Justice Statistics)

### **Effect on the offender**

Convicted criminals are found to be more positively influenced if incarceration is the used as a means of punishment, since it is believed that an offender's psychological state of mind is greatly affected during incarceration. Being away from their families, it is more likely they face depression, which not only strikes the core of family structure promoting single-parenting, but also causes social marginalization, and in turns elevates recidivism. When offenders complete their incarceration time they struggle to balance between economic difficulties, employment challenges, not to mention the stigma they carry that affects how people see them as part of their community. However, if rehabilitation comes from community supervision, some issues offenders face can be resolved, such as employment. Plus offenders are not parted from their families and start re-building their life.

Also, " employment is limited by various Federal and State laws that deny ex-offenders the right to vote, hold certain public offices, and engage in certain occupations. Other nonlegal influences are less obvious; the stigma of prison may reduce marriage prospects, for example" (Mackenzie, 2001).

### **Social effect on society**

Punishment and rehabilitation affect societies in different and various ways. Family structures are damaged, the cost of correctional facilities and

punishment is enormous and societies tend to marginalize anyone that breaks the rules run within the society, because communities “ provide and enforce norms of behavior that keep most people from engaging in criminal activity” (Mackenzie, 2001). When such norms break, people that are being isolated due to their criminal behavior are more likely to give in to criminal behaviors again. As previously mentioned, incarceration weakens family bonds as father-offenders are usually taken away from their families, which makes it more difficult to supervise and control teenage children (Mackenzie, 2001). Moreover, families of non-offenders are filled with fear when criminals have served their time and are released back to societies. Also, marriageable men are reduced, which in fact increases single parenthood and mothers that need to find the means to raise and support their children and themselves (Mackenzie, 2001). It comes naturally that by removing offenders from societies, people are relieved that those people will not commit any more crimes (Mackenzie, 2001).

### **Fiscal effect on society**

Punishment has a profound fiscal effect on societies, due to the record incarceration rates noticed during the last two decades that contribute to “ increased income inequality and more concentrated poverty” (Kirchhoff, 2010). Also, the increased prison population can create unequal distribution of federal dollars, given that regions with new prisons gather more population and consequently more “ aid from federal population-based formulas” (Kirchhoff, 2010). Furthermore, “ The average cost of to house feed, clothe, and supervise a prisoner is in excess of \$30, 000 per prisoner”



(Irwin & Austin, 1997: 138), not including of course construction costs, among others.

The aforementioned costs of punishment can be reduced with rehabilitation programs, while many states have embraced alternative methods to punish, other than incarceration, like the Boot Camp for Prisoners (Klein-Saffran ,& Jeffers, 1993) with shock-incarceration programs as applied in Texas and Pennsylvania that are proven most cost-effective, compared to incarceration.

Indicatively, the JOURNAL OF CORRECTIONAL PHILOSOPHY AND PRACTICE, published by the Administrative Office of the United States Courts, mentions that “ The cost of shock incarceration in New York State has been estimated to be \$10, 000 less per year per prisoner than the cost of traditional incarceration” (1991) which means that tax payers are prone to pay much less annually.

## **Conclusion**

Controlling crime can be achieved mainly via punishment and rehabilitation and the laws imposed by the criminal justice system of each country. Facts have shown that a combination of both, meaning punishment that will be followed by rehabilitation, have increased likeliness to more positive outcomes and deter crime more effectively, while community supervision and punishment need to be just according to the offence committed. That way, there is a greater chance that criminal offenders are prevented from re-submerge to criminal behaviors and acts.

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