

Comparison of Global Penal Systems

How do the Rehabilitation Systems for Inmates in Federally Owned Prisons
Compare in Brazil and Norway?

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Equality & Inequality

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Introduction

"Overall, we need bold change in our criminal justice system. A good first step forward is to start treating prisoners as human beings, not profiting from their incarceration" ("Bernie"). This quote highlights the importance of a fair judicial system, by criticizing the system at its most basic level. This topic is represented by the theme equality and inequality, as it compares two vastly different two penal systems, with very few similarities in regards to prisoner treatment. As the world population continues to increase, the world crime rates follow a similar trend. This causes a need for global nations to establish a more efficient prison system that will yield the best results. In order to understand the development of such prison systems, it is important to explore the history of these nations especially in regards to politics. Once an understanding is established, the next step is compiling the beneficial elements of these systems in order to create the most efficient prison system with regard to prisoner rehabilitation and treatment. By reviewing historical and political perspectives, one is able to explore a variety of topics from different sources which can answer the question, "How do the federal prison systems compare in Brazil and in Norway?"

History

Before Norway introduced its revolutionary restorative justice system, prisoners experienced a punitive system that is similar to the majority of prisons today. Change occurred with the help of the Norwegian Association for Criminal Reform, KROM. This prison reform movement saw Norway's lack of socio-political improvement as an opportunity to improve its prison systems by exploring the sociology of law. KROM heavily criticized Norway's penal system which led to the political uprising of 1968. One of the most controversial aspects of this system was the "Schools of Labor." These forced labor institutions were aimed towards juvenile

delinquents, especially in areas where homelessness was rampant. Involuntary servitude led to outrage causing its abolishment in 1970, followed by the abolishment of the juvenile institutions five years later (Papendorgf 125-127). This article comes from Knut Papendorf, a professor in the Department of Criminology and Sociology of Law at the University of Oslo. Papendorf has published many articles and books surrounding the idea of criminal policy, sociology behind laws, and the relationship between laws and control. The target audience of this article is someone who holds an understanding about the subject. The website which published this article limits the number of articles a user can read without being charged a fee and the reader must create an account on the website in order to access it. This limits the number of people who have access to the information as it is unlikely that most would wish to create an account, or they may have reached their limit in free readings. Furthermore, a payment is required in order to download or subscribe to the article which may also limit the widespread availability of the information provided.

Between 1970 and 2000, Norway experienced a monumental shift in its prison system. Neoclassical ideas were beginning to emerge regarding prisons and they heavily influenced this change. These ideas inspired the penal concept that rehabilitation was of the utmost importance and that no treatment used to cure a criminal should be used to justify the length of a prison sentence. This ideology inspired the maximum civilian prison sentence to be 21 years, with no civilian life sentences. Limited sentencing focuses around the concept of rehabilitating offenders instead of prohibiting them from reinstating themselves into society. Heavy emphasis on rehabilitation can also be seen in Norwegian drug laws. Treatment for drug addiction focused on medicinal, educational, and psychiatric support to understand the root of the problem as a health issue, rather than a criminal affair. This decriminalization of drugs is also visible in more recent

years, but began during the prison reform. Prison reform led to a penal system which focused on guiding offenders toward the main goal of re-entry into society and allowing for true recovery. (Giertsen 589-591).

While Norwegian prisons pride themselves in the excellent living conditions for inmates, Brazilian inmates can have an experience that is completely the opposite. Brazil's penal system has a history of overpopulation and violent prison revolts. Brazil gained independence from Portugal in 1822, resulting in monarchy and slavery which led to social hierarchies with little class mobility. Police would target areas characterized by high populations of Africans or their descendants and make arrests, thus promoting the institutionalized slavery of Brazil's prison population. This system was supported by inmate labor requirements, which were manipulated by racist ideas. During the late 1800's, the human rights movement in Brazil became much more prominent. This was due to the abolishment of slavery in 1888. It became less socially acceptable to imprison minorities for petty crimes. Instead, the government would use the army draft as punishment for petty crimes that could not be proven. Imprisonment and forced army service were tactics used to target people in impoverished areas. During the early 1900's, the population of both the Brazilian prison system and the Brazilian army increased significantly. This is considered one of the main factors which generated the oppressive prison system that Brazil utilizes today (Dikötter 26-27).

Over time, Brazil's strict drug laws have since become fairly more liberal and the arrest of gang members led to severe overpopulation in prisons. Overcrowding became a rampant problem and it has been identified as the main provoking element in many prison riots. This can be seen in the 1992 prison riot, the Carandiro Massacre, which resulted in 111 inmates being killed. What began as a confrontation between rival groups, led to a gross display of power as

300 prison officers stormed the building (Brooke, “111 Killed When Police Storm Brazilian Prison During Inmate Riot”). Years after this riot, officers were charged with very long prison sentences because it was discovered that many prisoners were killed at close range, even after surrendering. This is a prime example of how officers can have a sense of superiority over inmates, resulting in the murder of those below them. Overpopulation does not always lead to extreme events like this but it may negatively affect lives of inmates. Public defenders were scarce, and with the huge influx of people, prison overcrowding became even worse. As Brazilian incarceration continued to increase, privatization of prisons became necessary to create a more humane and economically advantageous option (Leeds, Elizabeth). This article is written by Elizabeth Leeds, the leading expert on police reform and security in Brazil. She is a senior fellow who has studied the Brazilian prison system extensively and is advising WOLA, Washington Office on Latin America, toward reform. She studied at MIT from 1989-1997 and is currently working as a Research Associate in International Studies. This is significant because she has studied human rights issues in Brazil’s penal system for many years. She views human rights violations as a significant problem and chooses to publish articles with human rights organizations in order to raise awareness and promote change. The article is directed towards those who are interested in fighting to promote human rights in the Americas. It is easily accessible and is available to the general public for dissemination of information.

The penal systems of Norway and Brazil developed in two distinctly different directions. At some point, they both recognized a need for change, but the change was more humane in Norway. Brazil was slow to make humanitarian changes. This is due to a variety of factors but can be most notably attributed to the rigid social structure in Brazil. The post slavery dynamic in Brazil led to oppression and maltreatment of freed black Brazilians, which contributed to the

unjust penal system. Similarly, Norway was also involved in the slave trade because Scandinavian countries exploited Africans into this inhumane workforce. The main difference between the two was the availability of social movement. The lowest class of workers in Norway, Thralls, were allowed some social mobility as they had the opportunity to be released by their owner or buy their freedom. Thralldom occurred during the Viking Age while Norway was under Danish powers, and quickly diminished with the rise of Christianity. (Pelteret 46-47). This information is not used to diminish the malicious intent behind the Scandinavian slave trade, but to show the differences between the situations. Norway's slave trade ended sooner in history than Brazil's slave trade and the lasting effects of it are not as prominent. The racial breakdown of Norway is predominantly caucasian, while Brazil had a much more diverse population with a social hierarchy based largely on race. This made racial profiling of criminal behavior a much bigger problem in Brazil. It is evident that the history of both Brazil and Norway had similar trends which affected the prison systems in place. Both nations recognized a need for change which affected the modern day penal systems that are in place.

Global Politics

In the early 2000's, both Norway and Brazil established updated prison departments which replaced their older systems. This was an effort from both countries to work towards the most effective prison system that they could. In 2002, Norway created the Norwegian Correctional Service. The mission statement of this service recognizes the importance of preventing re-entry of offenders by changing their criminal behavior through their own initiatives and of mandating realistic prison sentences. This department replaced the prison board which existed before. While the Norwegian Correctional Service existed prior to 2002, this was the year

in which it became the primary agency governing prison affairs (“About the Norwegian Correctional Service”).

Similarly, in 2006 Brazil re-established the Departamento Penitenciario Nacional (National Prison Department) after opening many new prisons. According to its website, the mission is to promote human dignity in a professional and transparent matter, in order to support the Brazilian penal system and to benefit society. In this, they hold the vision of maintaining the fundamental rights of those who commit crimes. This exemplifies that the motive behind their prison system is to ensure that prisoners experience the same rights that all humans should have (“Departamento Penitenciária Nacional”). It is interesting that the Norwegian Correctional Service, unlike the National Prison Department, explains the importance of restoring their prisoners in order to avoid future offenses. This shows that the values behind the two systems are very different, while neither is profoundly wrong. When comparing the two mission statements, it is notable that Brazil uses their prisons to benefit the general public, thus promoting a larger prison population; and Norway uses a system called “restorative justice” where prisons are used as a rehabilitation program in an attempt to lower the number of prisoners. These different approaches seem to be the most popular when establishing a penal system, as there are pros and cons to each view.

After understanding the base ideas of these two systems, it is important to explore whether the conditions of these federal prisons adhere to their values properly. The Halden Prison is a maximum security in Norway which holds 260 inmates and is staffed by 340 people. This institution thrives off the concept that prison should embrace societal norms in order to make the transition back into society as seamless as possible. This is accomplished by establishing an open and respectful form of communication between officers and prisoners to

oppose the culture of intimidation and oppression that is so common in prison life. The warden of the Halden Prison, Are Høidal, believes that offenders should be involved in jobs like cooking and music that will have a beneficial effect on their lives, rather than forcing them to complete menial tasks. This shows that the officers don't have the desire to degrade the inmates, but want to grant opportunities to them in order to reduce the chance of future crimes. This is the result of the ideal of Høidal who criticizes other systems productivity as prisoners do not live under the standards of society, therefore, making it increasingly likely that they will return into the prison system. ("Breaking the Cycle")

The Porto Velho Penitentiary is located in the state of Rondônia, Brazil and holds 8000 inmates and 100 guards. Due to the high population of gang members, Porto Velho has had a history riddled with violent riots. Arguably, the most infamous riot included the decapitation and burning of members associated with a certain gang. This extreme rivalry led to the separation of the two gangs into different sectors of the prison and ended all contact between them. The two most common gangs present in this prison include the Red Command and the Primerioro Comanda de Capital (PCC.) Both these gangs were formed in prisons as prisoners sought to make relationships to protect themselves from violence and form an alliance with those around them. Not only are many prisoners involved in this dangerous lifestyle, but there are also limited opportunities for prisoners to work in order to gain experiences that can be useful in the outside world. Some inmates at Porto Vehlo have the option to stitch together soccer balls which they then donate to local orphanages and schools. While this is a good way for them to help the community and reduce their sentence, this does not offer any skills that can translate into their lives once they are released from prison. Their penal system relies on punishment rather than rehabilitation. In Netflix's documentary, "Inside the World's Toughest Prisons," a reoffending

inmate is interviewed and admits that he is forced to partake in illegal activities in order to support his family. After he completed his prison sentence, he was without new opportunities which enticed him to continue in a life of crime and ultimately, return to prison. Without more education and career programs afforded to prisoners, this vicious cycle will continue and the number of victims will continue to increase (*Inside the World's Toughest Prisons*).

Comparing the prison statistics between the different nations creates a greater understanding of the implications and functionality of each system. Since there is such a disparity between populations of Brazil and Norway, the total prison population is not relevant in the argument of which system has the greater effects. Instead, one can look at the prison population rate per 100,000 people. The rate of Norway's prison population per 100,000 people is 74, while Brazil's rate is 324, 4 times greater than Norway's. This information does not relate to rehabilitation specifically, but it shows that overall, in Brazil's penal system, crime and punishment are much more prevalent. The conditions of a country's prison generally hold a direct correlation to the recidivism rates of that country. One of the major flaws of Brazil's penal system is the overpopulation of prisons. This can be seen as the occupancy level of prisons in Brazil is 165.4% compared to the 95.2% level of Norway. While both numbers are extremely high, it is important to note that there are 1,449 prisons in Brazil, while there are only 54 in Norway. Again, it is expected for a country with a larger population to have a larger number of prisons, but that does not excuse that the Brazil's prison population is more than 1.5 times larger than the maximum capacity ("Norway") ("Brazil"). Contrary to previous beliefs, the negative conditions of a prison do not deter an offender from re-entering a prison, but actually, the worse the conditions are, the higher the recidivism rate is (Chen 22). Extreme overpopulation combined with the dangerous living conditions of many Brazilian prisons contribute to the high

recidivism rate of 80% (“A new chance for prisoners in Brazil”). This sharply contrasts to the 20% recidivism rate of Norway. This statistic is highly influenced by Norwegian standards of rehabilitation rather than punishment. It also shows that overall, the Norwegian prison system holds more success, as the purpose of prisons is to lessen the number of crimes committed and to avoid the re-admission of previous offenders. This is furthered as the prison population trend shows that the Brazilian population rate is increasing at a much more rapid rate than Norway’s. From 2000 to 2016, this rate has increased from 133 to 313 in Brazil, and from 57 to 73 in Norway. While both show an increase, the Brazilian rate increases in a much more rapid fashion. Furthermore, in more recent years there has been a decline in the Norwegian prison population rate, while the Brazilian rate continues to grow (“World Prison Brief”). Evidence supports that the Norwegian penal system holds greater positive results than that of Brazil.

A significant factor affecting prison statistics is a country’s stance on drugs and drug usage. This is seen in how they choose to reprimand both drug users and drug traffickers. Due to recent drug law reform in Brazil, “Whoever acquires, keeps, holds in storage, transports or carries upon himself, for personal use, drugs without authorization or in violation of legal or regulatory decree, shall be subject to the following penalties: I: warnings about the effects of drugs; II: community service; III: educational measures, completion of an educational course.” This is unexpected because it is generally assumed that very strict drug laws precipitate higher incarceration rates. Brazil views personal drug usage as an educational opportunity to allow for drug users to go through an educational rehabilitation in order to avoid both jail time and future offences. This may lead to the conclusion that Brazilian drug laws are lenient, but that is not factual with regard to strict laws on narcotics trafficking. According to Article 33, “Any importation, exportation, delivery, or administrations of drugs, especially narcotics, is punishable

by 5 to 15 years in prison and a fine of \$500 to \$1500” (“Brazil.” TNI Drugs & Democracy).

This law was established as an attempt to decrease the amount of narcotics being distributed in Brazil. There was a recent increase in drug related crimes and in drug overdoses. It is interesting that the Brazilian government treats personal drug use as health-related issue, while drug trafficking is viewed as a crime. Although the law dictates the expectations of Brazilian citizens, drug use is still extremely prevalent, which leads to a large percentage of the prison population having drug charges.

Although drug laws are generally more lenient in European countries, Norwegian drug laws differ from this assumption. According to Act no. 132, in Norway, the use or possession of any minor quantity of drugs without medical value leads to either a fine or imprisonment for up to 6 months. Analogous with Brazil, Norway has a fine and prison sentence for those charged with the trafficking of narcotics. While the prison sentence is much shorter, at up to 2 years, it is evident that both countries are trying to solve a drug crisis that affects people across the globe. Since 2006, Norway has offered an alternate plan for non-violent offenders which allows them to start a three year long drug treatment program. This program became a permanent aspect of drug addiction management by 2016. It allowed for drug users to receive the help they needed, as patients with an illness rather than as criminals who need to be punished (“Norway: Country Drug Report.”). It is surprising that the drug laws are so different in these two countries in levels of leniency and in the way drug users are treated. It was expected that the high prison rate in Brazil was due to stricter drug laws, which opposed the effect in Norway, so it is very surprising that this is not the case. The contingency of drug-related incarcerations seems to be that Norway offers a rehabilitation program for offenders which allows them to give up drugs in a healthy

manner and provides them with skills to succeed in society. Brazilian prisoners lack access for new opportunities, which leads to increased drug abuse, gang affiliation, and recidivism.

Application

After exploring the penal systems of both Brazil and Norway, it is important to analyze whether Norway's rehabilitation focused system would work in place of Brazil's punitive focused system. One of the main forms of economic support for Norway's prisons is the income tax from Norway's citizens. The average tax on a Norwegian citizen in 2018 is 38.52% ("Norway Personal Income Tax Rate"). This is much higher than the 27.5% income tax rate in Brazil ("Brazil Personal Income Tax Rate"). A higher tax rate in Brazil could potentially allocate higher funds to the penal system for costly rehabilitative efforts, rather than only providing custodial care. While specific dollar amounts are not available for how much Brazil pays to maintain its prisons, it is evident that a switch to the humane prisons of Norway would be an enormous investment. Although the conditions of Brazil's prisons are generally very bad, the government manages to somewhat maintain 1,449 institutions ("Brazil"). Norway has 54 establishments which are still very expensive to run ("Norway"). This shows that the price that is needed to run Brazilian prisons is very high, but the switch to a similar layout as the Norwegian system would be even more expensive. Brazil may enhance their prison system to make it more suitable for the prison population and this would be a drastic change to a system that may not be embraced due to the outstanding price.

Not only would the price factor be significant, but one should consider whether such a program would work efficiently in Brazil. A similar strategy was adopted by an American prison system, which can represent the difficulties in transitioning between two systems that are so different from each other. The North Dakota State Penitentiary decided to change from a more

conventional system to one that is similar to Norway's and their results were very interesting. During the beginning of this trial the staff resisted the idea because such leniency allowed for some prisoners to take advantage of the system. This proved to be a significant problem in the beginning, but over time they continued with the progression model, a system based completely on behavior. This model stated that if a prisoner was put on punishment for their bad behavior, good behavior would allow them to get off punishment, regardless of a certain time period. This teaches responsibility for actions and led to the prisoners to take the system as more valid. This system modeled the Norwegian plan but was modified and altered to fit their environment. This could be a solution for Brazil to allow for their prison department to find a balance between systems which works for them. (*Breaking the Cycle*)

Conclusion

The original intent of this exploration was to compare and contrast the rehabilitation systems in federally owned prisons in both Brazil and Norway. During the investigation, it became evident that the Brazilian prison system lacks a rehabilitation system entirely, so the purpose of this essay shifted. While comparing the lives of prisoners during and after prison in both countries, it was then important to explore which system granted the best results and whether that system could work in the other nation. Through this investigation, it is evident that the prison system in Norway grants greater results as it has a much lower recidivism rate and holds a focus on rehabilitation rather than punishment. Although such a radical change in prison structure in Brazil would not go over well due to a history of oppression of prisoners and cost, the system could easily implement certain aspects in order to create a more successful system. One of the main influencers in deciding this topic was that prison systems are extremely important in all nations, whether they are considered a good system or not. Rehabilitation for

offenders is extremely important as it leads to further opportunities, which allows them to avoid falling back into their previous lifestyles. While the Brazilian and Norwegian prison systems are radical opposites, it would be interesting to assess penal institutions in other countries, especially considering those with more conventional methods, in order to understand what leads a prison system towards successful outcomes for inmates.

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Date:

Supervisor initials:

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Date:

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