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Disposable Bodies: Human Dignity and Incarceration in the United States

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Abstract

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This thesis explores incarceration in the United States of America and its impact on incarcerated individuals' human dignity. It also looks at how dehumanization in prisons aligns with the goals of punishment, international norms, and the definition of dignity. In Chapter 1, I define human dignity, using philosophy, the United Nations, and Supreme Court cases. In Chapter 2, I examine the traditional rationales for punishment. In Chapter 3, I look at current carceral practices that strip away human dignity. In Chapter 4, I explore justifications for this sort of punishment. Finally, in Chapter 5, I describe reforms that could be implemented to restore human dignity to incarcerated individuals.

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Introduction

Even as a volunteer inside a Georgia State Prison, my human dignity was diminished. As I drove up to the prison for the first time, I passed the looming watchtower and barbed wire fence that towered high above me. I walked through the claustrophobic security bunker where I was invasively searched. Then, I stepped through the sallyport, the passageway between the prison and the free world, where I was stopped by a guard. She turned and sized me up, along with the other student who was with me, and our professor. “Where are your visitor badges?” she asked us. We informed the woman that we were unaware we needed them and that no one mentioned visitor badges in the security bunker. The professor who accompanied us turned around and said that she would go and ask for them while we waited in the sallyport. When my professor returned, she told the guard there was only one. “Give it to the male,” was her response, signaling my professor to the male student who was with me. I was unnerved by the fact that this officer referred to my colleague with a dehumanizing term like “the male,” but we were all grateful she let us in the gate, so we ignored it and stepped inside. It soon became clear to me that the entire structure of the prison is set up to diminish and dehumanize incarcerated individuals in more persistent ways than I experienced on my first visit.

After entering the prison and walking through the grounds to the education building, eyes of both the incarcerated men and the security officers following us every step of the way, we entered the classroom and began our class. The class was full of rich discussions of Milton’s epic poem, *Paradise Lost*. But I heard yelling folded into the conversation in the classroom. I turned and peered across the hall and saw a security officer, inches away from an incarcerated man’s face, as he screamed at him. Screaming is truly the only way to describe the encounter. The officer was so loud that between two closed doors and a hallway, I could hear every expletive the

officer used as he insulted the man. I immediately looked around at the students in my class, but they acted as if nothing was happening, signaling to me this was a common occurrence.

Both of these incidents demonstrated to me that dehumanizing and degrading experiences happen constantly in a prison, both for visitors and for the incarcerated. The words of Arlando Jones III, in *Philosophy Imprisoned*, come to mind: “Nearly every aspect of prison is designed to break the human spirit and render souls lost” (129). Richard Singer affirms, “it has long been recognized that the entire process of prison is designed to destroy the last remnants of the dignity of the individual” (669). This experience, and the many I have had since, have led me to a similar conclusion and thus, to question why our prisons function in a way that deprives people of their dignity. And I began to wonder how stripping away incarcerated people’s dignity aligns with the goals of punishment. Is the objective of the United States’ carceral system to dehumanize and degrade other human beings? And does dehumanization contribute to or diminish from the goals of punishment?

We must ask questions about the ways and means of punishment because the United States is specifically immersed in an incarceration crisis. Despite claims and promises of freedom, the United States holds the world’s highest incarceration rate. Melvin Gutterman points out, “With more than one million people behind bars, our highly civilized country can now claim the dubious distinction of imprisoning more of its citizens, per capita, than any other country” (857). Gutterman’s numbers are a bit outdated. Since he wrote this article in 1992, the incarcerated population has doubled—currently, 2.3 million people are behind bars in the United States (The Prison Policy). These sobering and unacceptable statistics mean more than just millions sitting in cages; incarceration has become a tool to control and incapacitate human beings beyond their time physically in prison. Michelle Alexander, in her highly acclaimed *The*

New Jim Crow, mentions that that as a result of incarceration, many policies, including lack of access to food stamps, employment discrimination, inability to vote, among others, lead formerly incarcerated individuals to struggle to re-adapt into society. She explores what these policies proclaim:

Collectively, these sanctions send the strong message that, now that you have been labeled, you are no longer wanted. You are no longer part of ‘us,’ the deserving. Unable to drive, get a job, find housing, or even qualify for public benefits, many ex-offenders lose their children, their dignity, and eventually their freedom—landing back in jail after failing to play by rules that seem hopelessly stacked against them. (Alexander 143)

The soul-crushing experience of incarceration paired with these policies make rehabilitation and reentry virtually unattainable. Hence, the most recent study of recidivism shows that 83% of state prisoners were rearrested at some point in the 9 years following their release (The Prison Policy). So, despite the intense tactics, outrageous prison numbers, and re-entry policy, it is impossible to argue that this system works, as it sends many people back into a cycle of incarceration. Again, we must examine how and why we incarcerate people so as to combat this crisis.

In addition to the actual mechanisms of incarceration, one cannot describe the injustice of incarceration without describing the racial injustice within the criminal legal system. People of color are policed, arrested, and incarcerated disproportionately more than whites. Despite making up only 13% of the United States’ population, Black people make up 43% of the incarcerated population (The Prison Policy). Additionally, this country criminalizes the poor; incarcerated individuals have significantly lower pre-incarceration annual income than non-incarcerated individuals (The Prison Policy). The criminalization of race and poverty are two issues that are intimately connected to the question of dignity. Defining someone based *solely* on their race or

socioeconomic status denies them any individuality and inherent worth outside of this marked characteristic. Thus, promoting human dignity for incarcerated individuals also means promoting a legal system that eliminates structural and habitual forms of racism and inequality.

The abhorrent attacks on human dignity that occur within a prison's walls can no longer go unnoticed and unchallenged. The criminal legal system does have legitimate goals—deterrence, incapacitation, retribution, and rehabilitation—but the execution of these goals dehumanizes incarcerated individuals. In this thesis, I show that many of the current carceral practices, including extensive time in solitary confinement, disturbing punishments, and invasive prison rituals, are designed to attack human dignity and as such, do not serve an ethically valuable purpose, are morally unjustifiable, and are unaligned with international standards. With this in mind, we must rethink the ways in which we punish in the United States to accomplish our goals without dehumanizing our citizens.

This thesis will examine the ways in which United States prisons strip away human dignity. In Chapter 1 of this thesis, I define dignity from a modern-day Kantian perspective while also exploring international norms and definitions of dignity. In Chapter 2, I examine the traditional rationales for punishment: retribution, incapacitation, deterrence, and rehabilitation, and argue some of these goals are more acceptable than others. In Chapter 3, I first explore some of the most disturbing practices within the criminal legal system designed to dehumanize. Chapter 3 also demonstrates the practices inherent to how prisons are designed and operate that also strip away human dignity. In Chapter 4, I will argue that dehumanization in prisons must end; dehumanization neither aligns with the goals of incarceration nor does it align with international law. I also argue imprisoning in this way is morally unjustifiable. In Chapter 5, I will suggest specific policies the United States could implement in order to change the way we

think about punishment, to end racism and criminalization of the poor in the criminal legal system, and to turn away from incapacitation as the only solution to crime. Finally, I conclude by insisting that this change in incarceration is necessary not only to prevent dehumanization of individual persons but also to benefit the whole of society.

Chapter 1: Defining Dignity

To begin to understand the relationship between incarceration and human dignity, I draw on two definitions of dignity. Despite a great deal of philosophy concerning autonomy and free will, dignity is a rarely referenced concept. The most frequently cited definitions of dignity come from German philosopher, Immanuel Kant. Prior to exploring Kant's view, I acknowledge that Kant's other writings related to race contain disturbing descriptions of Black people that are inconsistent with his discussion of dignity. For the purposes of this thesis, Kant's definition merely provides a baseline that, in order to be useful to understanding dignity, must be expanded to include all human beings, not just white men.

Kant begins his discussion of human dignity by arguing that all rational beings must be treated as ends in themselves, rather than as a means to some end. To expand upon his exploration of dignity, Kant breaks down all things, including human beings, into two categories: those with a price and those with dignity. He argues that those things with a price can be easily replaced, but nothing can replace a thing with dignity. Kant states, "Whatever has a price can be replaced by something else as its equivalent; on the other hand, whatever is above all price and therefore admits of no equivalent, has dignity" (51). Additionally, according to Kant, things with dignity are things that are treated with respect for their "intrinsic worth" (52). He includes human beings in the category of priceless items, and hence, for Kant, human beings are things with dignity that must be treated with intrinsic worth. For Kant, this intrinsic worth of human beings is *a priori*, meaning it exists within humans by virtue of their very humanity; it is not something that can be bestowed upon them or taken away.

About two hundred years later, in 1948, the United Nations created its own definition of dignity within its Declaration of Human Rights. The United Nations' Declaration of Human

Rights preamble states that the document's goal is the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family" (United Nations). The document describes dignity as inalienable, meaning it cannot or should not be taken away. Additionally, the United Nations characterizes dignity as a thing that is inherent, meaning, just as Kant asserts, dignity exists a priori in all human beings. Further, the United Nations explains that dignity is available to all humans, regardless of any markers of difference, including actions. Finally, this document connects human rights and dignity, signaling that dignity is a crucial category in the maintenance and protection of human rights.

Alan Gerwith, in "Human Dignity as Basic Rights," unpacks the United Nations' definition of human dignity and provides a contemporary Kantian view in his outline of the features of dignity. He argues that the United Nations defines dignity as the "intrinsic worth that belongs equally to all human beings as such, constituted by certain intrinsically valuable aspects of being human" (Gerwith 12). Thus, dignity is an innate characteristic of humans. Gerwith adds that dignity is permanent regardless of a human's status. He writes, "[dignity] is a necessary, not a contingent, feature of all humans; it is permanent and unchanging, not transitory or changeable; and [...] it sets certain limits to how humans may justifiably be treated" (Gerwith 12). For the most part, Gerwith, the United Nations, and Kant are aligned in their definitions of dignity, however, unlike Kant, Gerwith and the United Nations stress that dignity is a quality of "all members of the human family," rather than simply Kant's inclusion of rational beings, which for him, only meant white men (United Nations).

With these three understandings of dignity in mind, and in this thesis, dignity is defined as the intrinsic value of all humans. This is an unchanging characteristic of humans, regardless of their actions. Additionally, treating someone with dignity means treating her with respect for her

intrinsic worth—hence, in a way that does not degrade or dehumanize this worth. As a result of this broad conception of dignity, it must belong to all human beings. Gerwith clarifies this point:

It must be a characteristic of criminals as well as saints, of cowards as well as heroes, of fools as well as sages, of mental defectives as well as mentally normal persons, of slaves as well as masters, of subjects as well as lords, of disease-ridden invalids as well as athletes, of drug addicts as well as persons of self-control, of starving proletarians as well as well-fed capitalists, and so forth. (Gerwith 15)

Here, Gerwith brings us to the connection between dignity and incarceration; even those who are criminals, those who are disempowered and excluded from society, retain their dignity. I argue they retain this dignity through all steps of their incarceration. Hence, when they are treated as sub-human and without intrinsic worth, their dignity, and consequently, the characteristic that provides them with their worth as human beings, is violated.

Moreover, defining dignity in this way has utilitarian consequences. If dignity refers to the intrinsic value inherent in all human beings, treating someone in a way that is degrading or dehumanizing—or at all inconsistent with this inherent worth—ignores this worth. If dignity is ignored in one case, how do we know it will not be ignored in another? Leslie Meltzer Henry describes this problem when she writes, “Treating a person in a subhuman manner is wrong not only for the effect it has on that individual, but also for the consequences it has on collective humanity and society” (221). Ignoring the dignity of one individual opens the door to ignore the inherent worth of any person or all persons, which has major consequences for all of us. If we hope to maintain our own individual dignity, we must promote and respect each person’s individual dignity.

Beyond more abstract and philosophical definitions of dignity, American Jurisprudence has wrestled with the question of dignity as a right for all Americans. The right to dignity, as ruled by recent Courts, lies in the penumbra of the Fourth, Fifth, Eighth, and Fourteenth Amendments. It has not always been this way; for centuries the Courts deferred to state authorities, or even they, themselves, reinforced the stripping of human dignity in prisons. For example, in the 1861 case of *Ruffin v. Commonwealth*, a judge ruled that an incarcerated person “is for the time being the slave of the State” (Pillsbury). This ruling only reinforced the notion that incarcerated individuals are sub-human and justified their treatment as such. But recent Courts, most notably in *Brown v. Plata* in 2011, have held that “prisoners retain the essence of *human dignity inherent in all persons*” (Kennedy 12). In the majority opinion for the Supreme Court, Justice Kennedy added that basic human rights are necessary to maintain the dignity of incarcerated individuals: “A prison that deprives prisoners of basic sustenance, including adequate medical care, is incompatible with the concept of human dignity and has no place in civilized society” (13). Thus, we can see that the American legal system has begun to shift its definition of dignity in favor of an all-encompassing and permanent right that is available to all persons—even incarcerated persons.

Similar to Kennedy’s understanding of dignity, the United Nations created the Standard Minimum Rules for the Treatment of Prisoners, or “the Mandela Rules,” in 2015 to create standards by which member states should abide when punishing their citizens. While not legally binding, the United States did agree to these standards as members of the United Nations General Assembly. Within the Mandela Rules, the United Nations re-emphasizes prisoners’ inherent dignity found in the Universal Declaration of Human Rights: “All prisoners shall be treated with the respect due to their inherent dignity and value as human beings” (1). But beyond simply

emphasizing inherent dignity, the United Nations highlights the fact that crime can never be used as justification for stripping away human dignity. The rules state, “No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman, or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification” (United Nations 8). Thus, just as Gerwith defines dignity in this way, the United Nations emphasizes the fact that any criminal act does not remove a person’s dignity, nor does it justify any dehumanization as punishment.

Kant, Gerwith, Henry, Kennedy, and the United Nations each describe dignity as an inherent characteristic of human beings that cannot be gained or lost based on any action; in other words, it is a thing we all share, and appears to be ineradicable. Accepting this definition means that we are accepting a broad understanding of dignity that, if violated on an individual basis, is violated for all of us. Accepting this definition also means accepting that incarcerated people, regardless of their crimes, retain dignity and that their dignity is inextricably linked to the dignity of other members of the free world, through our shared humanity.

Chapter 2: The Rationales for Punishment

In addition to defining dignity, it is critical to understand the traditional rationales for punishment and how they align with human dignity. Ultimately, punishment's goal is to reduce crime and make communities safer. With this goal in mind, criminal legal scholars have identified four traditional rationales for punishment: deterrence, incapacitation, rehabilitation, and retribution. Each of these rationales is meant to justify and guide the criminal legal system in the United States. But are they equally acceptable? And are they properly executed?

To begin, retribution is the idea that punishment serves as vengeance for a wrongful act. It resembles traditional and biblical notions of an "Eye for an Eye," found in The Hebrew Bible (Miller). However, retribution is solely focused on revenge and executing violence rather than reform. In our hopes to maintain human dignity, retribution is the least acceptable goal of punishment. While retribution does reflect perhaps more traditional notions of justice, it causes disturbing attacks on human beings—attacks that are deemed justifiable because these humans have wronged society in some way. Retribution may seem rational because it fulfills our hope for vengeance and in this way, is satisfying. Martha Nussbaum points this out when she states:

Despite all the arguments of Socrates, Plato, and Bentham, not to mention Gandhi, King, and Mandela, many people still favor punishments that fit a retributive model, according to which the 'doer must suffer,' and there must be 'payback.' Other ideas of punishment are repeatedly derided as soft and unmanly, and politicians lose elections for not being sufficiently 'tough on crime,' a phrase that means 'harsh,' 'inflicting retributive suffering.' (Nussbaum 176)

However, violence should not create or justify further violence. Retribution is the most problematic rationale because it only promotes further suffering by assuming that because a

human has wronged society in some way, they no longer retain their human rights or dignity and thus are deserving of any attack the state executes upon them.

Retribution has existed, in one way or another, as a form of punishment since the beginning of human history. And while retribution was always part of punishment, the means to achieve this retribution have shifted. As Foucault famously argues in *Discipline and Punish: The Birth of the Prison*, punishment began to shift from a hold on the body to a hold on the mind or the soul. He writes: “If the penalty in its most severe forms no longer addresses itself to the body, on what does it lay hold [...] since it is no longer the body, it must be the soul. The expiation that once rained down upon the body must be replaced by a punishment that acts in depth on the heart, the thoughts, the wills, the inclinations” (Foucault 16). We see this shift to the punishment of the “soul” play out in the American criminal legal system—when incarcerated individuals’ free will disappears, they are separated from loved ones, and intensely controlled and policed.

The early-modern picture of punishment—stocks, public hangings, and other corporal punishment—disappeared when the American founders were no longer interested in public punishment. Most notably, Benjamin Rush was one of the first critics of public punishments and the death penalty. He delivered a paper in 1787 at Benjamin Franklin’s house wherein he proposed punishment should turn from the public to the private. He hoped to reduce recidivism and rehabilitate. While at first glance, this seems promising, Rush did not think private punishment would reduce punishment’s severity (Sullivan). He wrote that isolating and confining individuals would remove personal liberty and “personal liberty is so dear to all men, that the loss of it for an indefinite time, is a punishment so severe, that death has often been preferred to it” (Rush 11). While Rush’s intended consequences were severe, his paper marked a shift in punishment in the United States—a shift from destroying an individual to reforming an

individual. And with the other Founders' blessings, Rush became instrumental in establishing the first penitentiary in Pennsylvania, Walnut Street Prison in 1790. Of course, Rush's promise of reform for incarcerated individuals has done the complete opposite of its intentions; now, as Dayan notes in his book *The Law is a White Dog*, "punishment has been gradually reinvented as an alteration of mind" (74). Dayan coins the term "soul death" to describe the current carceral system's detrimental effects on the mind and soul (70). As incarceration became the norm, the United States saw a shift from retributive attacks on people's physical bodies to attacks on people's humanity, yet these attacks were still intended to execute vengeance. However, our legal system must do more than seek payback; it must restore and rebuild what is broken.

The next traditional rationale of punishment is deterrence. Deterrence is designed to send a message that threatens punishment if one decides to commit a crime; the thinking is that a person will not commit a crime for fear of the potential punishment (University of Minnesota). Deterrence is connected to retribution in that it promotes harsh, retributive punishments, in the hopes that these punishments may discourage crime. With this in mind, deterrence has been used to justify much of the "tough on crime" policies—for example, "three strikes you're out" laws—that have led millions of Americans repeatedly locked up in prisons and jails for extended periods. Philosopher and prison proponent, Ernest van den Haag, advocates for deterrence policies when he states, "deterrence [...] is a message addressed to the public at large. The punishment of the offender deters others by telling them: 'This will happen to you if you violate the law.' Deterrence protects the social order by restraining [...] other members of society" (60-61). Van den Haag's idea of deterrence may seem initially compelling, but if pushed too far, it can lead to executing harsh violence on people who commit crimes, which, like retribution, is unacceptable in its promotion of increased violence and harm. Now, this does not mean all

deterrence is unacceptable; we must have consequences for crime to prevent future crime, but if deterrence goes too far and leads to dehumanizing punishments, that is when it no longer is acceptable. Moreover, even if deterrence was completely acceptable, it does not work in its current form. As previously cited, the current recidivism rate is 83%, so current harsh practices are not keeping society safer or preventing future crime (The Prison Policy).

Incapacitation is the idea that an offender must be removed from society to prevent any future crimes (University of Minnesota). The idea of incapacitation makes sense practically and is not necessarily as violent as retribution or deterrence, thereby making it more acceptable than the two. However, it is ineffective because it is merely a short-term solution, especially as most incarcerated individuals will be released from prison. Incapacitation is simply a tool to warehouse bodies—often bodies of color—society deems unfit to continue living among us. And again, incapacitation does not work. What can we expect of people who are released from prison if they have simply been held for many years in a cage without an opportunity for reform? This person will either be the same, or more than likely, worse off, than when they entered the prison, and will then, probably re-offend, winding up back in prison a few years following release.

Furthermore, because it is focused on mitigating risk, incapacitation is indiscriminate in the way it looks at crime; incapacitation minimizes risk by locking everyone up. Legal scholar, Jonathan Simon notes that if the criminal legal system functioned solely within the incapacitation framework, “all punishment for all crimes would be life imprisonment, thereby eliminating the individual crime risk entirely” (42). And we cannot solely focus on minimizing risk because simply locking up all people deemed a risk is not the way we fix the crime problem in this country. Rather than just holding bodies, we need a criminal legal system that hopes to reform and restore. Short-term incapacitation while focusing on rehabilitation of an incarcerated

individual makes sense and is acceptable, but incapacitation cannot exist in a vacuum; it must be combined with rehabilitative practices to ensure we are treating incarcerated individuals with dignity.

Rehabilitation is the final rationale that this thesis will describe. Rehabilitation aims at reforming a defendant's behavior to allow successful reentry into society (University of Minnesota). With its goal of improving individuals and making society safer, rehabilitation is the most acceptable rationale for punishment. This is because it is forward-looking in its attempts to prevent crime; it is focused on what an offender could achieve in the future rather than the crimes he or she has committed in the past. Further, it is most aligned with promoting human dignity since it views individuals as human beings who are capable of improving themselves and reintegrating into society. Therefore, rehabilitation acknowledges human beings' inherent value and intrinsic worth despite their crimes.

Examples of rehabilitative programs include educational courses, mental health programs, drug counseling, job training, among other programs aimed at creating improved individuals. And these programs, in addition to their respect for human dignity, actually work. A recent study on the Bard Prison Initiative, a program providing college courses and credit to incarcerated individuals, has shown that among incarcerated individuals who participated in Bard's College in Prison initiative, the recidivism rate was only 2.5% (Cohen). This is compared to the 83% recidivism rate nationally (The Prison Policy). So not only is rehabilitation important in terms of its deep acknowledgement of and respect for dignity and humanity, but it also is effective in preventing the cycle of incarceration. Unfortunately, rehabilitation is rarely achieved in the current criminal legal system, and rehabilitative programs are rare. In fact, many incarcerated individuals are so deeply disturbed during their incarceration that they exit prison

with more mental health issues than when they arrived (Montross 74). But we must turn our attention to rehabilitation in order to effectively reduce crime and treat people with humanity.

To return briefly to The United Nations' Mandela Rules, the standards begin by highlighting their own stated purposes of punishment, which differ slightly from the traditional goals mentioned here. The document states: "The purpose of a sentence of imprisonment [...] [is] primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life" (United Nations 8). These stated purposes of punishment promote dignity while also protecting society. If the United States accepted this definition, which it should, based on its signature on the document, retribution can have no place in punishment. Retribution serves no purpose other than executing vengeance; it does not protect society, nor does it rehabilitate. Short-term incapacitation and deterrence through short-term incapacitation are acceptable based on this stated purpose since they protect society, but the overall focus must be protecting society through rehabilitation. Rehabilitation reduces the recidivism rates and focuses on reintegrating people into society rather than locking them up forever. It sees people as humans who are capable of reform rather than objects we can lock up and ignore.

With these rationales for punishment in mind, we can now turn to the means by which these goals are accomplished or attempted. As discussed in more detail later, many of the prison's current practices—from prolonged solitary confinement to intense punishments—strip away human dignity. While the goals are rational to some degree, the means are, at times, horrific. To return to my first prison visit, what was the purpose of that guard's unrestrained yelling in an incarcerated man's face? Which of these rationales does it serve? A practice like

this only strips away the identity and dignity of that incarcerated man. Perhaps the guard was not actively aware he was dehumanizing this man, but this type of beratement is an example of an institutional feature of the criminal legal system designed to dehumanize. While preventing crime is important, current carceral practices have stretched well beyond the rationales, specifically beyond deterrence, incapacitation, and rehabilitation. While these practices arguably achieve retribution, is retribution all we can ask of a justice system? I argue that the justice system can and must do more than just execute vengeance.

Chapter 3: Carceral Practices

Part 1: Particularly Abhorrent Carceral Practices

With an understanding of what dignity means and the aims of incarceration—retribution, deterrence, incapacitation, and rehabilitation—this chapter takes a look at specific measures that exist in prisons and jails throughout the country today to demonstrate how these goals have been attempted.

Solitary Confinement

In 1842, Charles Dickens visited Eastern State Penitentiary in Pennsylvania. There, he observed the practice of solitary confinement for the first time. Originally based on Quaker ideals, solitary confinement was designed to allow an incarcerated individual time to reflect on his or her actions (Guterman 860). However, the reality of this practice did not and still does not reflect the imagined ideal. Dickens described the system as “rigid, strict and hopeless” (68) He added, “I believe [solitary confinement] in its effects to be cruel and wrong.... I hold this slow and daily tampering with the mysteries of the brain, to be immeasurably worse than any torture of the body” (Dickens 68). In the two hundred years following Dickens’ visit, not much has changed. Solitary confinement refers to the practice of isolating incarcerated individuals in a small space for an extended period of time. It is done for a variety of reasons—sometimes to punish or sometimes to protect threatened incarcerated individuals (Stevenson 36). Whatever the motivation, the United States places approximately 80,000 people in solitary confinement per year. Additionally, about 20% of all people detained in prisons and jails spend time in isolation (Montross 117).

What does time in solitary actually entail? It is made up of either 23 or 24 hours per day alone in a cell. There is no human interaction except when brought food, and sometimes,

incarcerated individuals in solitary get an hour of exercise in a “pen,” the exact size of the cell.

Jonathan Simon describes solitary:

The [Security Housing Unit] interior is designed to reduce visual stimulation. The cell blocks are marked throughout by a dull sameness in design and color. The cells are windowless; the walls are white concrete. When inside the cell, all one can see through the perforated metal door is another white wall. A small exercise pen with cement floors and walls is attached to the end of each pod. Because the walls are 20 feet high, they preclude any view of the outside world. The top of the pen is covered partly by a screen and partly by a plastic rain cover, thus providing access to some fresh air. (Simon 49)

Additionally, time in solitary means no access to newspapers, magazines, and personal photographs. Life in solitary is not living in the way we understand it. Dayan describes a man in solitary as, “a man buried alive; to be dug out in the slow round of years; and in the meantime, dead to everything but torturing anxieties and despair” (66). Recognizing how abominable this practice is, in 2015 the United Nations, within their Mandela Rules, stated that prolonged confinement for more than 22 hours per day for more than 15 days is considered torture (United Nations). However, in the United States, stays in solitary start at 30 days, but can last indefinitely (Rockwood). So according to the United Nations, of which the United States is a member and signatory of the Mandela Rules, the United States is torturing its citizens regularly.

What does prolonged isolation do to a person? In Lorna Rhodes’ interview with a guard working at a supermax solitary facility, he stated, “Isolation is the worst thing we do to people” (29). Isolation is particularly impactful to incarcerated individuals because it reduces human beings to a base existence; they are no longer living as a person, but as a creature, merely surviving. Jonathan Simon writes that solitary confinement creates a situation in which

“punishment is no longer the legally intended loss of Liberty, access to family and friends, and the opportunity to develop oneself. It is transformed into something more profound—the denial of a recognizable human existence and the reduction to a mere biological existence, one that political theorists might call ‘bare life’” (71). Hence, humans in solitary confinement are no longer living as human beings in the way we understand living but are instead stripped of their humanity and treated as mere creatures.

In addition to reducing human beings to a base existence, solitary confinement causes intense psychological trauma for incarcerated individuals. Christine Montross, when describing the psychological effects of solitary confinement, writes, “when subjected to unrelenting sensory deprivation and social isolation, regardless of the circumstance, the human mind responded predictably: with aggression and fear” (161). Solitary confinement creates a self-fulfilling prophecy; by deeply disturbing human beings through confinement, we rationalize continuing to keep them there. Montross points this out:

These measures are justified by the argument that the men held in solitary confinement must be so contained because of the wild dangerousness that is in their very nature. Only these drastic measures can contain the risk that these men embody. That logic, of course, does not track. We have known for more than a century the human behavior cited as the rationale for solitary confinement is consequence, not cause. (Montross 115)

Thus, many incarcerated people continue their stay in solitary for extended periods—well beyond what the United Nations considers torturous. Despite challenges to the Supreme Court, solitary confinement has been deemed neither cruel nor unusual and therefore remains an integral part of the way we punish in the criminal legal system. But we have to ask what is the purpose of solitary confinement? How does it align with incarceration’s goals? At best, it is a

retributive measure that leaves offenders worse off than when they entered. At worst, it is intentionally designed to remove personhood from human beings in the name of vengeance.

Nutraloaf

In Christine Montross's book, she describes many carceral practices that leave psychological scars on incarcerated individuals. But I was most disturbed when she described the concept of Nutraloaf. She explains, "in prisons and jails across America, incarcerated men and women are served food that is mashed together and cooked into a loaf. Ingredients that meet nutritional mandates—or ground-up leftovers of prison meals that do—are combined into an indistinguishable mass and served as a meal" (Montross 202) This is typically done as punishment for those who have refused to eat, thrown food, or used utensils incorrectly. It is also sometimes served to those in solitary confinement. Incarcerated individuals describe Nutraloaf as disgusting and inedible, according to Montross.

Nutraloaf represents one of many practices in prisons that remove agency from human beings. Human beings who are free, that is, not imprisoned, get the opportunity to choose what we eat: "our food choices—and the partialities and aversions that give rise to them—make us feel human. They represent our individuality and independence" (Montross 203). So, in removing this choice and serving a repulsive mass of leftovers, we not only remove agency, but we also remove any of the comfort food can provide us. The question again becomes, what purpose does Nutraloaf serve? It is a punishment that repulses, and likely starves, those who receive it. But how does it align with the goals of incarceration? It is retributive certainly, but just like solitary confinement, Nutraloaf creates unnecessary suffering and is a practice that only strips away dignity. More poignantly, it is a mechanism of the criminal legal system that seems designed to remove any sense of an incarcerated person's humanity. Moreover, the United

Nations' Mandela Rules condemn any punishment that alters an incarcerated individual's food as punishment. The document states, "Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served" (United Nations 12). Even if we ignored the solely retributive and troubling concept of a practice like serving Nutraloaf, the United States has signed a document stating that practices such as Nutraloaf do not align with our standards of human dignity. How can we let this practice continue?

Medical Neglect

As mentioned previously, the United States' prison population is at an all-time high, leading to a crisis of prison overpopulation. This overpopulation combined with the dehumanization occurring within prisons has led to a crisis of medical neglect among incarcerated individuals. Jonathan Simon writes that "the new prisons of mass incarceration were built with a shocking lack of planning for providing for human needs, particularly medical and mental health services" (6). In 2011, the lack of medical care in prisons was challenged in the Supreme Court. The lead plaintiff in the case, Marciano Plata injured his back and knee while working in the kitchen at a California State Prison. Despite multiple requests for medical care, it took two months for Plata to be seen by an orthopedic doctor who recommended surgery. Following the surgery, it took Plata a year and a half to recover, mainly because prison officials ignored the doctors' instructions and advice involving Plata's recovery. Similarly, Joseph Long suffered a bladder stone for ten months before the prison treated him. Another incident described in the case involved a mentally ill man who was ignored for 24 hours and was discovered by a psychiatric expert standing in a cage, "in a pool of his own urine, unresponsive and nearly catatonic" (Kennedy 2). These were not isolated incidents; the case was full of similar examples

of medical or mental health neglect. In 2011, The Supreme Court ruled that denial of medical or mental healthcare violated the Eighth Amendment protections against cruel and unusual punishment and ordered California to reduce the size of its prisons. In his opinion, Justice Kennedy pointed out the dignity loss experienced by inmates without medical care and argued that human dignity is a right retained by inmates: “A prison that deprives prisoners of basic sustenance, including adequate medical care, is incompatible with the concept of human dignity and has no place in civilized society” (13). This appeared to be a success for incarcerated people—perhaps they would begin to retain some dignity despite their existence in prison.

Unfortunately, despite the Supreme Court’s well-intentioned ruling, prisons are still operating well above capacity. The most recent data shows that in 2014, “federal prisons were operating at 128 percent capacity. Twenty-eight states were operating in excess of capacity including Alabama at 198 percent, Illinois at 171 percent, and Delaware, Hawaii, and Nebraska at 159-162 percent” (Tonry 463). While *Brown v. Plata* aimed at resolving the inadequate medical care inside prisons, very little has changed in the ten years since the ruling. Further, it is important to understand the significance of *Brown*. The case “reminds us that prison conditions can amount to torture [...] the constant exposure of thousands of prisoners to the real risk of what Justice Kennedy described as ‘prolonged illness and unnecessary pain’” (Simon 142). Further, the Mandela Rules state that governments must take responsibility for the healthcare of incarcerated individuals: “Prisoners should enjoy the same standards of health care that are available in the community and should have access to necessary health care services free of charge without discrimination on the grounds of their legal status” (United Nations 12). Clearly, both the standards set forth by the Supreme Court and the United Nations are ignored by prison and government officials throughout the country. Again, what is the purpose? Yes, the courts

have sought to remedy this situation, but we must reflect on what lack of medical care truly means. It means we have chosen not to care about or care for incarcerated people—even those who are suffering. Jonathan Simon writes, “The lack of health care in prison implies a profound level of negligence and content, as if the bodies being incapacitated were not subject to the suffering accompanying injury, illness, and death—as if they were not human” (89) What possible purpose could this denial of medical and mental health care serve, if not to dehumanize incarcerated people? Denying medical care does not align with any of the acceptable goals of punishment and is simply a harsh measure of vengeance and neglect.

Each of these practices is poignant not only because of the detriment they do to incarcerated people but also because they feel purposeful. Unlike later described practices, they are not in place to appease security concerns but rather are simply attacks on incarcerated people who are marked worthy of these types of attacks because of their crimes. But does crime truly warrant denying medical care or serving disgusting food or isolating a person indefinitely? We must think twice about these types of practices and what they are doing to people behind bars. They are not keeping society safe, and they are certainly not allowing for successful reentry into society. So why should they continue?

Chapter 3: Carceral Practices

Part 2: Practices Inherent to the United States' Prison System

One could argue that each of the conditions described is horrific but is distinct and therefore can be remedied. If we eliminate solitary confinement beyond 15 days, end the serving of Nutraloaf, and decrease prison populations, for example, perhaps we could restore dignity for incarcerated populations. However, an argument such as this ignores the dehumanizing practices inherent to the United States' carceral system as we know it. At every step of incarceration, incarcerated humans are stripped of their dignity without even considering the previously described abhorrent abuses of power that take place inside prison; “[Prisoners] are impersonally and systematically degraded by every step in the criminal justice process, from arrest through detention to court appearance” (Irwin 163).

The United Nations, in their Mandela Rules, advocate that “The prison regime should seek to minimize any differences between prison life and life at liberty that tend to lessen [...] the respect due to their dignity as human beings” (United Nations 8). However, this is not what typically happens in the United States. The degradation inherent to the criminal legal system is most obviously seen in the practices of caging human beings. The entire practice of incarceration in the United States involves placing people in cages. Some cages, or “cells” are larger than others, but most are no larger than “the size of a normal bathroom” (Leder 51). Dayan clarifies this phenomenon: “Humans considered deviant are locked up in cages like dangerous beasts but kept out of sight” (179). The entire concept of caging is dehumanizing—how is it possible that we maintain human dignity while we are simultaneously placing human beings in cages?

But even before their placement in cages, incarcerated individuals lose all sense of individuality, and hence, a crucial quality to their humanity. They are stripped, searched, bathed,

clothed in state uniforms, and assigned a number. Irwin describes this process when he states, “mortifying rituals, such as searching, stripping, bathing, spraying, and the taking of personal property, that are conducted with the institutional purpose of converting newcomers into manageable inmates” (68-69). Gutterman adds that strip searches violate an incarcerated person’s bodily integrity and as a result, completely dehumanize. He writes that they “generate feelings of ‘degradation’ and ‘terror’” and “engender a fear in inmates of physical and sexual abuse by prison guards” (Gutterman 907-908). Of course, it is clear why strip searches happen: the state’s security interests. However, we must consider how this sort of security measure affects human beings and perhaps use it more sparingly in order to restore and then maintain human dignity.

After intense searching, a human’s entire individuality, arguably what makes him human, is removed. An incarcerated person’s clothing is taken and replaced with a loose uniform, men’s hair is cut or shaved, making it extremely difficult for the individual to maintain his normal physical appearance, which, as John Irwin remarks, “is a crucial factor in sustaining [his or her] conception of self” (71). The incarcerated person also loses his or her name and becomes identified by a number. This human is now no longer part of the world that he or she once knew. Rather, he or she is “severed from the social world in which his old identity was grounded,” and is “shaped and coded into an object” to be controlled by the state (Smith 37). Singer points out that the uniformity required as an incarcerated individual enters prison has legitimate security purposes. He writes that incarceration’s emphasis on sameness, “reduces the inmate’s individuality, makes [him or her] more malleable, and hence less volatile” (Singer 703). However, Singer also points out the consequences of a security measure such as this: “it also

reduces [his or her] humanity, removes [his or her] uniqueness, and impinges on [his or her] dignity” (703). Is it worth the cost?

In addition to the loss of individuality, an incarcerated person is also isolated from all things familiar to him or her as a result of his or her placement in a cage. Again, incarceration is meant to punish, but removing a person from society has serious consequences. After a person’s identity is stripped through degrading rituals, he or she becomes alienated from all family and friends. If visitation is allowed, it is heavily surveilled and restricted in prison. Smith notes the consequences that this lack of contact with others can have on a person: “Locked away from the known world, alienated from family and identity, the prisoners lose the habits and instruments of culture that once made them recognizable as ‘human’” (Smith 173). The United Nations’ Mandela Rules condemn separation from a person’s family and exclusion from his or her community. The rules state, “The treatment of prisoners should emphasize not their exclusion from the community but their continuing part in it. Community agencies should therefore be enlisted wherever possible to assist the prison staff in the task of social rehabilitation of prisoners” (United Nations 27). Additionally, the rules add, “Prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation” (United Nations 20). Keeping people around family and friends and near their community promotes successful reentry and rehabilitation rather than fear, isolation, and loneliness.

These practices each represent only a few examples of practices ingrained within the American prison system that strip away dignity. Singer writes, “every day, in every way, the prison reinforces the inmate’s image of himself as that of something less than a human” (670). So, it seems overwhelmingly clear that prison inherently dehumanizes its captives. It forces them in cages, intensely surveils them, removes them from any semblance of their past lives, forces

many of them to spend years without human contact, eliminates all choice, among many other described practices. And while many argue that punishment is necessary to prevent crime and create justice, and I agree, we must note the cost of such a punishment. Many incarcerated individuals will be released and will not resemble who they were when they entered. But this is not for the better; dehumanization has a detrimental impact on human beings. And how can we expect a reformed person if we have done nothing to restore them but instead have removed their dignity?

Now we come to the question of whether or not dehumanization is an intended goal of incarceration or simply a consequence of it. And to this question, I respond, what could any other goal be? It's a disturbing idea to grapple with, but, again, let us take the example of Nutraloaf. What purpose does Nutraloaf serve? If not to eliminate agency and humanness, why do we serve incarcerated men and women a disgusting mass of leftovers? Or to turn to a mechanism within the prison, what purpose does the process of caging a human being serve? It creates shame and turns human beings into animal-like creatures rather than treating them as people capable of reform. Christine Montross writes that in the process of incarceration, "We take away everything that is familiar and replace it with something on the spectrum from neutrally foreign and unknown to intentionally painful and injurious" (203). Beyond fearmongering and "othering," what other purpose could this serve?

In writing this thesis, I have come to the conclusion that the United States, through its abysmal system of punishment, has continuously and intentionally stripped away the dignity of millions of incarcerated individuals. This realization has not been easy. However, in exploring the ways in which a prison functions has shown me that the mechanisms of prison are designed to constantly remind the incarcerated person that he or she is incarcerated and, as such, is part of

the rightless—part of those who are no longer deserving of their humanity. Here, we can return to Kant and his definition of human dignity. He writes that to be treated with dignity is to be treated as a “rational being [existing] as an end in himself and not merely as a means to be arbitrarily used by this or that will” (Kant 45). But rather than treat human beings as an end in themselves, our prison system distinguishes between the deserving and the undeserving; the undeserving are no longer treated as autonomous beings but rather as sub-human. And as part of this status, they no longer retain their dignity.

Chapter 4: Unjustifiable Incarceration

After describing the goals and means of incarceration, I now turn to consider the justification for this sort of punishment. The goal of imprisonment should be to keep communities safe and promote reentry to stop the cycle of recidivism. Thus, rehabilitation is the most acceptable rationale while retribution is the least acceptable. The majority of the practices I have described solely align with the goal of retribution—the idea that someone must pay for his or her actions. While this may be more satisfying to biblical notions of justice, it does not repair the damage followed based upon the crime committed. Further retribution does not assist with reentry or keep society safer in any way. Many of these practices barely fit within a model of incapacitation or deterrence, let alone rehabilitation; they are solely based on revenge and anger. But if we actually hope to keep society safer, we can no longer justify a legal system that solely achieves retribution.

Moreover, to return to international norms, the United Nations has explicitly stated within its Mandela Rules that certain retributive practices—prolonged solitary confinement, lack of family visitation, inadequate medical care, among others—do not align with preserving human dignity. Additionally, the Mandela Rules have emphasized the importance of maintaining dignity even though an incarcerated person has committed a crime. With the United States' signature on the document, it is clear that these carceral practices are unjustifiable. Again, this is not a legally binding document, but since the United States is a signatory of the document, it is advocating that punishment should promote dignity. It is a complete contradiction for the United States to sign such a document while it continues to dehumanize people in its prisons.

Further, to return to the definition of dignity, dignity requires treating human beings with respect for their intrinsic worth. This means that regardless of a person's criminal act, he must be

treated as a human being. This is not always an easy conclusion to accept since criminals are usually considered deserving of whatever punishment comes their way. Richard Lippke points out:

When the plight of prison inmates is considered at all, it is not uncommon for them to be portrayed as deserving of whatever abuses or indignities befall them during their confinement. The reason for this is not hard to discern: unlike other human beings who are socially marginalized for reasons of race, gender, or ethnicity, prisoners are presumed to have done things that make them loathsome. (Lippke 1)

But dignity is a permanent quality of human beings. Thus, regardless of a crime, we must continue to treat others with respect for their humanity. The carceral practices I have described do not treat incarcerated individuals with respect for their humanity; rather they are intentionally harsh and alienating.

Let us imagine that the state performed these dehumanizingly harsh penalties on people outside of the context of punishment. If this were the case, we would all agree that it is an unjustifiable attack on the human dignity of these people. But because we strip *criminals* of their rights, we can justify any infringement on these rights. Quinn writes, “our underlying thought may simply be that the criminal ought to be punished for his crime and that this punishment will be justified not by its effects but by the fact of the crime itself” (334). But again, dignity is a permanent characteristic of criminals and non-criminals. Thus, even criminals retain dignity, and as such, we can no longer use crime to justify current punishment tactics that dehumanize.

Treating people with dignity is not meant to ignore the outrageous and egregious nature of any given crime. Crime is troubling at times, but it does not undo a person’s status as a human. Bedau writes with the example of murder in mind: “An act of murder does not cause an

offender to lose whatever moral capacities he may have had prior to his crime.” (173). A crime cannot warrant treating someone as a nonhuman entity. Thus, if we would deem the punishments that exist in the American prison system inhumane if performed on an innocent person, we ought to think twice before we perform them on any human regardless of what crime or action that person has taken. We are all still human beings who retain dignity regardless of our worst acts.

In addition to individual harm caused by dehumanization, stripping away the human dignity of incarcerated individuals also has problematic consequences for all of us. The idea that we are capable of removing other people’s dignity, based upon what they have done, means not only that we are taking immense power into our hands, but also that our dignity is temporary. As previously discussed, the United Nations is adamant that dignity exists regardless of differentiating features or status, but if a society can deem someone as no longer worthy of his or her dignity, our understanding of dignity is impermanent. Hannah Arendt points out this inconsistency when she argues, “No paradox of contemporary politics is filled with more poignant irony than the discrepancy between the efforts of well-meaning idealists who stubbornly insist on regarding as ‘inalienable’ those human rights which are enjoyed only by citizens of the most prosperous and civilized countries, and the situation of the rightless themselves.” (279). And this is exactly the paradox we see within the criminal legal system; if certain people can lose their dignity, then dignity is impermanent, and any of us could lose it.

Finally, changing the way we imprison makes sense practically. This is because most incarcerated individuals will be released; the average sentence in the United States is five and a quarter years (Montross 217). Pair this with an alarmingly high recidivism rate, and it is clear that prisons are not reducing crime or keeping communities safe. In fact, many scholars have argued that dehumanization makes recidivism worse; John Irwin, for example, explains, “The

fact remains that imprisonment does considerable harm to prisoners in obvious and subtle ways and makes it more difficult for them to achieve viability, satisfaction, and respect when they are released from prison” (149). Even if we ignore international law, the rationales of punishment, or morality concerns, if our simple goal of punishment is to make society safer and reduce crime, the status quo is still not working. Thus, we must rethink the methods we use to punish and imprison.

Many fear that a reimagining of prisons wherein we restore the dignity of convicted individuals ignores justice—that we must execute harsh punishment for wrongful acts. Van den Haag writes that in using rehabilitative methods or less strict punishments, we ignore justice. He asserts, “The link between guilt and the punishment deserved by it—justice—is severed and replaced by a link between therapy and expected future conduct.” (Van den Haag 187). But first, arguments such as these ignore what is actually happening inside prisons; most people who are locked up are hurting; they are not the remorseless serial killers we see on television. Christine Montross writes, “Certainly there are people within our nation's correctional facilities who have committed truly evil acts, but the majority of those behind bars do not fall into this category. Instead, most detainees fall within a Venn diagram of overlapping disadvantage groups that include racial minorities, the poor, the addicted, and the mentally ill.” (60). Further, much of this “monster” language just allows our society to rationalize keeping human beings in inhumane conditions in prison. By constructing a category of human beings as deserving of inhumane treatment, we can rationalize keeping them locked away inside prisons. Lenn notes that as long as we

Reduce these individuals to their worst act—drug dealer, thief, killer—then it is possible to rationalize their captivity and thus the confinement of the largest prison population in

the world. This act of reducing a person to a single, socially devalued feature of her or his life as if it stands in for that person's entire identity is usually the first step in the dehumanization of another and thus rationalizing their ill treatment. (Lenn 3)

Not only is it inaccurate to define individuals by their crimes, but it also allows us to turn a blind eye to the real suffering that is happening within our prisons' walls.

Now, of course, there are people in prison who may only be capable of harming others and who cannot change. This is a very small percentage of people suffering from extreme psychological and emotional harm but advocating for human dignity does not mean releasing these individuals. Instead, it means treating them as human beings. As Dayan notes, an incarcerated person does not "lose his human quality" just because the prison gates have shut him in (98). And we must acknowledge that the incarcerated population is human. We can still understand and acknowledge the gravity of a crime and seek justice without stripping away dignity. Nussbaum writes that we must turn towards a society that seeks justice but also sees the offender as a human. She argues, "What, in general, society ought to express is this: the crime is outrageous, but we can see the offender, with sympathy, as someone who is more and better than the crime, capable of good in future, and we can adjust sentencing [and penalties] in the light of that thought." (Nussbaum 207-208). This is not an easy task; crime creates anger, sadness, and many times, a desire for revenge. But perhaps we can shift our thinking and create consequences without dehumanization.

Overall, while punishment is necessary, incarceration in the way it exists today is unjustifiable. It may achieve deterrence and incapacitation, but dehumanization is not necessary to achieve these goals. It does not rehabilitate and is overall simply and disturbingly retributive. It does not align with international standards, despite the United States' participation in the

United Nations General Assembly. Additionally, dehumanization in prisons has consequences for all of our dignity because it assumes dignity is an impermanent quality. And finally, our current system of incarceration is not actually effective at reducing recidivism and keeping our communities safe, which is the primary purpose of incarceration in the first place. Thus, we must rethink the way we implement punishment.

Chapter 5: What Next?

One of the primary ways we can achieve punishment without dehumanization is if we shift our focus from incapacitation and retribution to rehabilitation. But a shift in focus to rehabilitation requires we restore dignity and believe incarcerated individuals are capable of reform. Singer writes, “it is impossible to rehabilitate a man when everything around him tells him, repeatedly, that he is not a man, that he has no humanity” (715). Treating people as sub-human does not effectively allow for rehabilitation. Thus, we must shift the way we view incarcerated individuals; not as monsters who have lost all hope and humanity but as individuals capable and worthy of reform and change.

While it might seem hard to imagine a prison system that is focused primarily on rehabilitation, it has been done. Norway specifically is a country that could be used as a model for the United States. While a smaller country with a much more homogenous population than that of the United States, Norway had a similar crime problem and used similar punishment tactics as the United States. However, unlike the United States, Norway realized that with such a high recidivism rate, their retributive crime policies were not working. So, they shifted their focus to rehabilitation. Just like the United States with an average sentence of five and a quarter years, the average sentence in Norway is six years, so Norwegian officials believed it was critical for them to improve their prison to reform and rehabilitate so that they could create productive and reformed members of society once incarcerated individuals were inevitably released (Montross 217). Montross explains how the focus shifted in Norway: “The focus is no longer on payback and retribution, on making the criminal suffer. Instead, the focus is aligned with what will work, with what will reduce crime and diminish violence, with what will increase the safety of the communities and thus the nation” (216). Even moral argument aside, Norway discovered

that rehabilitation was actually more effective in decreasing recidivism than harsh and retributive penalties.

So how exactly does Norway rehabilitate? First, in line with the United Nations' Mandela Rules, they try to maintain normalcy for incarcerated individuals. While they lose liberty, incarcerated individuals wear "free world" clothing, have access to nature, are able to exercise, cook for themselves, and take classes—both educational courses and vocational training. Additionally, upon incarceration, officials attempt to identify the problem that led the person to commit a crime and attempt to solve it. For example, if unemployment led to a crime, they would provide an incarcerated individual with job training and opportunities upon release. Alternatively, if drug addiction was a problem, the incarcerated individual would receive drug counseling while in prison. They also allow incarcerated individuals to stay in close contact with family members so that they can maintain a sense of community and to provide for smoother reentry (Montross 211). All of these examples demonstrate how Norway's criminal legal system is forward-looking in its attempt to reform an individual and allow them to transition back to their communities upon release. This is very different from the United States, which predominantly looks backward and attempts to achieve revenge for a crime. Montross asserts, "In stark opposition to the widespread American reality of 'doing time'—where the primary work of a sentence is enduring the monotony of the days and years as they drag on—the Scandinavian perspective asserts that the time provided by a sentence of incarceration is in itself an opportunity" (211). Norway sees an opportunity to reform a person who committed a crime.

And the system in Norway is quite effective; only 20% of formerly incarcerated individuals are rearrested within two years. This is compared to 44% of American state prisoners who are arrested after their first year of release (Montross 218). So clearly it is working. Also,

there are far less incidences of violence in Norwegian prisons, which Montross attributes to the fact that incarcerated individuals retain access to hope and are treated humanely. She writes, “Extreme maladaptive behaviors are more likely to occur when there is no hope” (Montross 233). In addition to remaining hopeful, incarcerated individuals in Norway are with dignity; they are given a sense of purpose and agency even while they are incarcerated. Thus, Norway’s system is not only more effective in terms of results, but it is also significantly more acceptable than the United States in that it maintains humanity and dignity even for incarcerated individuals.

One important caveat to using Norway as a model is the difference in the United States’ criminalization of race and the poor. As mentioned earlier, Norway has a significantly more homogenous population than the United States and does not deal with same issues of racism in its criminal legal system. While we must focus on rehabilitation at the stage of incarceration, in order to truly promote and preserve human dignity, we also must end the structural injustices that lead African Americans to be incarcerated at a rate of over five times that of whites (Nellis). This includes ending excessive police surveillance and presence in poor and predominantly Black and minority communities, ending the school-to-prison pipeline and zero-tolerance policies, and eliminating the wide disparities in drug enforcement and arrest. While the connection between racial disparities and maintaining human dignity within incarceration may not be immediately clear, these issues are connected; by treating someone as a criminal based upon their socioeconomic status or race, we are denying their individuality. Jonathan Simon asserts:

For many, the question of whether our prisons honor human dignity may seem secondary to the racial disproportionality of mass incarceration. But the two issues are deeply intertwined, and our understanding of both will be strengthened if we bring them

together. In our time, racial profiling is a way of denying a person's dignity by being treated as a member of a class, not an individual human being. (Simon 10)

Thus, as part of policies that end dehumanization in prison and shift the focus towards rehabilitation, we also must end dehumanization and racism that leads to such overwhelmingly high incarceration rates and disparities between white people and people of color.

In addition to ending structural racism within the criminal legal system and shifting our thinking towards a rehabilitative model, a rethinking of the American carceral system would also include less imprisonment overall. If we remove vengeance as a goal of punishment, incarceration no longer needs to be the only tool for punishment, specifically when it comes to nonviolent crimes. Like Norway, the United States must focus on solving problems rather than creating temporary solutions. A clear example is nonviolent drug crime. One in five incarcerated individuals is in prison for a drug crime (The Prison Policy). Rather than locking drug addicts in cages, the United States should provide drug counseling and treatment. This shifts the focus from retribution and incapacitation—likely leading to later arrest and imprisonment—to attempting to solve the problem that led to the crime in the first place. A change such as this would not only decrease the number of people in jails and prisons throughout the country and the racial disparities that come with such high incarceration rates —thereby preventing prison overpopulation and stretched resources—but it would also restore dignity to drug offenders by deeming them as capable of reform rather than locking them up and depriving them of their dignity.

Another reform the United States could implement to restore dignity is reducing sentence length. Harsh laws such as “three strikes you’re out,” that penalize recidivism entail that nonviolent offenders can spend a lifetime in prison for offenses that warrant no such punishment.

Further, policies such as these often target people of color since they are policed at higher rates and are thus, more likely to be re-arrested. Harsh sentence policies such as these are merely retributive—because a person was rearrested, he or she lost the chance to continue in the “free world.” But the system is failing these people. Without rehabilitative programs that promote progress and change, how can we expect anything other than a cycle of incarceration? Removing harsh and overly punitive sentencing allows for the opportunity for rehabilitation which treats incarcerated individuals as humans with worth and with dignity. This is not to say that no one should receive life imprisonment; there are severe crimes and violent criminals who may never be capable of reform. But we must be extremely cautious before making a judgment such as this and reserve it for only the most violent criminals. We must believe that most of us are capable of more than our worst act and are capable of improvement. Doing this requires believing in and promoting our shared sense of dignity and humanity.

The suggestions listed here are not an exhaustive list of all the reforms that would improve the United States’ carceral system and begin treating people with human dignity. However, they are an important start because they begin to shift our conception of what punishment means and necessitates. Reforms that no longer emphasize vengeance and retribution allow us to imagine a criminal legal system that restores and heals. Furthermore, paying close attention to human dignity concerns enables us to create a system that is no longer guided by racism, but instead, promotes a shared understanding of humanity and dignity. These reforms are possible if we truly believe in the inherent dignity of our fellow human beings. Beyond possible, they are necessary; freedom cannot continue as an American right while we simultaneously lock up millions of our citizens and carry out human rights abuses upon them. The criminal legal system as we understand it today must be completely overhauled to end dehumanization,

revenge, and abuse that do not align with morality or international standards of conduct. We must stop treating incarcerated individuals as disposal and instead treat them with dignity.

Conclusion

A little over a year ago, in 2019, the state of Georgia passed anti-shackling legislation. Anti-shackling legislation bans prison officials from shackling pregnant incarcerated women to a bed during childbirth (Prabhu). In 2018, the First Step Act ended shackling for women in childbirth in federal prisons (ACLU). However, twenty-three states still allow for shackling during childbirth. While the anti-shackling legislation in many states is an excellent step in the right direction, we must pause and think about this. In many states, incarcerated women are shackled to a bed while giving birth. And while some laws have changed, this has only happened recently. I think it is important to consider this practice and ask ourselves again what purpose shackling a woman in childbirth to a bed serves? It certainly does not rehabilitate women. It incapacitates women, but it is not necessary to accomplish incapacitation. It may deter women, but again, it is not necessary. It is certainly retributive; it reminds incarcerated women that even in childbirth, they are not free. But retribution is not enough to justify a harsh practice such as this. Further, the Mandela Rules specifically stated in 2015 that shackling is not in line with maintaining human dignity for incarcerated individuals, yet the practice continues in many states.

A practice such as shackling dehumanizes, humiliates, and degrades women. It is not a security measure but rather it serves as a reminder that even in childbirth, incarcerated women are not free but rather they belong to the state after committing a crime. It reinforces the idea that they are not humans; they are state objects because of their actions. They are still controlled by the state and treated as less than human even in childbirth, arguably the most human experience in life. Shackling is a retributive practice, executed only as vengeance. These women are still mothers, for example, daughters, and sisters. But we ignore this. We choose to define them by their mistakes in order to therefore justify their punishment. Shackling is an abhorrent practice,

but it is not an anomaly. This entire thesis has described the human rights abuses that exist within the walls of prisons in the United States. And that is the problem; there are far too many instances in which the prison strips incarcerated people of their dignity and removes all sense of personhood. And they cannot continue.

The prison system in the United States has enacted harsh penalties that dehumanize its captives and remove their dignity. This is not an easy conclusion to accept. It is much easier to assume that all people locked in cages in our prisons are monsters who are deserving of the harshest punishments enacted upon them. The implications of this—and perhaps what makes it even easier to accept—are that members of the free world are in some way more human than those who commit crimes, and therefore those who commit crimes deserve this dignity loss. If we accept this conclusion, we gain the privilege of ignoring the unjustifiable occurrences within a prison’s walls. But this is wrong. Christine Montross reminds us, “The lengths that human beings will go in order to convince themselves that their ill treatment of others is justified—necessary, even. There are such moments in our country’s own history that we now look back upon in shame. Extreme measures of oppression taken in the name of safety” (259-260). We are stripping away the human rights of members of our society. We are treating them as sub-human. Rather than having intrinsic worth by virtue of their status as human beings, we are treating them without dignity. And while yes, it is easier to assume everyone in prison deserves this treatment, it is untrue. And it is not working. We must reimagine the way we incarcerate not only to end the human rights abuses we execute upon our fellow human beings, but also to ensure our communities actually get safer and to reduce recidivism so we can all work towards moving past the pain and horror of crimes and towards a stronger community.

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