
Issue Brief
(Special)

Alternatives to Imprisonment

Imprisonment entails the institutional confinement of an offender within a correctional facility, in which the punishment is the deprivation of liberty. Despite there being no definitive proof that it improves public safety and security, many nations still consider imprisonment the default criminal sanction. This leads to a dangerous overcrowding in prisons, hindering the institution's ability to fulfill the United Nations Standard Minimum Rules for Treatment of Prisoners - subsequently infringing upon the human rights of the offender.

Large numbers of the prison population are made up of those serving prolonged pre-trial detentions and short sentences for minor offences, in which imprisonment is unnecessary for the level of crime. Prisons breed diseases, violence and recidivism; which refers to a convicted criminal's tendency to regress and reoffend once released, as they do not have the skills to productively reintegrate into society. The United Nations has established non binding conventions and treaties to shape the criminal justice system of its Member States, the most significant being the International Covenant on Civil and Political Rights (ICCPR) and the Tokyo Rules, which encourage the use of non-custodial alternatives that cater better to the offender's rehabilitation and humanitarian needs at every phase of the criminal justice procedure.

The alternatives proposed by the Rules rely on the equilibrium between the punitive value of the punishment; the rights of both the offender and the victim; as well as societal concerns. Thus, discretion must be given to judges in order to consider alternative punishment that is proportionately punitive to the offender and the crime committed - for example, a monetary pre-trial bail must be set in accordance the financial status of the accused. Minor cases can be diverted into restorative justice programmes, such as circle sentencing, which involves the community, to sensitize the offender towards the society they are harming. Imprisonment should only be used as the last resort as it has detrimental consequences, especially to four vulnerable groups: children, drug addicts, women and the mentally ill.

The first step to combating reliance on imprisonment will be legislative reforms to make alternative punishments mandatory - not as instruments to 'widen the net' in tying more individuals to the criminal justice system - but as sentencing options of their own.

Tianne Pane
Deputy President of the General Assembly