Assessment 2 (Research Essay) – Explanation

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Globally, imprisonment is the preferred mode of punishment for a range of crimes in spite of increasing recidivism. A number of researchers today are of the view that harsher sentences and imprisonment is not an effective remedy to deter crime. In Australia, nearly 45% of inmate population returned to prison in 2 years post-incarceration, nationally (QLD Gov, 2018). Australia, like the U.S. and Britain prefers locking criminals up, with the inmate population rising year. The problem is perplexing because there is significant reduction in the general rate of crime just as the prisons are becoming significantly more overcrowded. In this context, Judge Haesler’s gave the following statement:

The irony is that sending people to goal usually is the best indicator that people will re-offend. We are imposing these custodial sentences to protect the community, but the end result is that offenders come out and commit more crimes. Why we insist on harsher and harsher penalties, rather than education and intervention policies, is beyond me (Six minutes with Andrew Haesler SC, 2015, p. 15).

The paper will proceed to discuss, in light of Judge Haesler's statements, the suitability of prison as a punishment and its ability to deter crime and reduce recidivism, and whether harsh sentences fulfil their intended purpose of protecting the community. Moreover, alternatives to imprisonment will be explored to suggest effective means of reducing recidivism and deterring crime.

The impact of prison sentences in reducing recidivism is a vital matter of public interest and safety. Recidivism refers to re-offence behaviour in convicted criminals after they have served their sentences and returned back to their communities. The ability of prisons to reduce recidivism is the main intended function of the sentence, however an inefficacy to do so raises questions on the overall cost-benefit of sending offenders to prison. There are differences of opinions among experts with some inclined to the view that longer and harsher sentences ensure public safety, whereas there are those who argue that recidivism rates are largely unaffected by longer sentences, and thus advocate shorter sentences along with a greater emphasis on rehabilitation and education.

Harsher sentences that involve longer periods of imprisonment are usually justified on the reason that it prevents the offender from committing a crime due to incapacitation resulting from imprisonment. Moreover, it will discourage incarcerated individuals from committing further crimes, and the awareness of the punishment will deter potential criminals generally from committing any future crimes (Song & Lieb, 1993). In contrast, advocates that prefer the opposing view cite the fact that certainty of punishment serves a more vital role in preventing re-offence rather than the duration of punishment. A lot of times crimes are committed as a result of psychosocial factors, limited choices in life, physical addictions, or a lack of access to economic resources. Therefore, literacy efforts, rehabilitation, education and treatment programs would serve better as preventative means rather than harsher sentences involving longer incarceration periods.

Although the effect of sentence length in imprisonment and its effect on recidivism is a complex phenomenon and can often be offender specific. However, it is also a fact that prisons can serve a school for many criminals to become more entrenched and sophisticated. There is evidence to suggest that the likelihood to re-offence is not affected by incarceration for many offenders, and in fact could even lead to an increased risk of recidivism. There is also little evidence of early-release programs to have any positive impact in reducing recidivism rates.

Furthermore, there is strong evidence to suggest that the severity and harshness of sentences does not always correlate with deterrence. According to Nagin (2013), the deterrence effect from punishment should be analyzed from a number of perspectives which include: the presence of the ‘chastening’ effect or lack thereof from imprisonment, the possibility of exacerbating recidivism, the impact on deterrence from severity of punishment versus certainty, and the eventual lack of interest in criminal activity by individuals as they age further.

Using Nagin (2013)'s considerations, the first thing to evaluate is whether harsher sentences are providing the intended ‘chastening' effect on individuals or not. A number of practitioners and policymakers agree to the fact that a severe imprisonment sentence would likely produce the ‘chastening effect' which would prevent the convicted offender from re-committing the crime; however, there is no conclusive empirical evidence to back that assertion. In fact, imprisonment may lead to an exacerbation of recidivism by serving as training institutes for criminals to become even more sophisticated. Evidence from the U.S. also suggests that not only did prison produced little effect on minimising recidivism, it may have played a considerable role in increasing the overall rates (NIJ, 2016). Additionally, the NSW Bureau of Research and Crime Statistics in Australia found that longer prison sentences produced little deterrence effect in reducing crime, and it was increasing the risk of punishment and arrest, rather than the harshness thereof, that demonstrated positive results (Patty, 2012).

There are a range of sociological, social and psychological determinants of crime and delinquency. Increasing the harshness of sentences produces little effect on the behaviours and risk-factors which drive offenders. This explains why higher rates of re-offending were observed after longer sentences as the root-cause is often not addressed (Cullen, Jonson, & Nagin, 2011). Consequently, when offenders serve their sentences and return to their communities eventually, the problems usually come back, and even multiply. As, the risk-factors remain unaddressed, the rate of recidivism following harsher sentences increases and fails to deter many from committing offences again.

Nevertheless, criminal justice in Australia has increasingly tended to adopt a harsher approach towards sentences for offenders from its perceived effects of protecting the Australian community. Conversely, statistics suggest that the prison system was expanded to contain the influx, which not only puts significant strain on state and federal budgets, but potentially does more harm than good. Therefore, programs and policies that focus more on education, psychological interventions and rehabilitation efforts are more likely to succeed in improving community safety and preventing crime.

Rehabilitation for offenders is a concept that can be traced back to the 1840's in Australia, in which an indeterminate sentence was awarded to certain prisoners rather than the fixed sentences, in which their good behaviour played a considerable role in reducing their sentence. Moreover, a community resettlement and a system of aftercare was introduced. These ideas were based on social reforms that were being introduced in Britain in the 19th century, in which prisons began to be seen as places that could potentially reform the lives of prisoners instead of ‘institutions of cruel punishments and deep despair’. Modern rehabilitation efforts involve psychological interventions and treatment. These may involve behaviour modification, behaviour therapy, psychodynamic psychotherapy, and other cognitive and behavioural approaches towards rehabilitation. Freud’s psychoanalytic theories explained delinquency as a failure in psychological development as the child grows. Although newer and more effective evidence-based theories and practices were developed, it helped gained significant insight into the root causes of crime and offending and led to a range of individual and group therapies developing to be utilised with offenders, that included psychodrama and group counselling. Eventually behaviour-based contingency management programs and ‘time out' programs replaced earlier practices.

In Australian prisons, there are good reasons to create standard incentive models that involve community driven therapeutic programs for incarcerated individuals. The programs are based on a close observation of the day to day interactions and social functioning of prisoners to find therapeutic opportunities. The interventions and educational programs are modelled in a way to encourage offenders to assume responsibility their individual behaviours and consideration of their responsibility towards others. Further rehabilitation programs can also involve cognitive behavioural therapy (CBT) in which the pro-criminal values, thoughts and attitudes such as lack of empathy, low self-control, pleasure are addressed, challenged and replaced with positive personality traits. There is considerable evidence to suggest that this approach led to significant advances in reducing recidivism.

The imposition of harsher penalties is a result of a range of factors that have influenced the courts to a certain extent. One of these factors in the public’s punitive stance towards sentences and critical view of the courts. This arises from an overall lack of understanding about the criminal justice system’s workings and the situation involving the crime. The hard-line approach by governments as well as courts has often been justified citing public opinion, and their dissatisfaction and concern over rising crime rates. Public opinion in this regard has the ability to influence legislation that elected politicians justify on the basis of. Moreover, judges also make certain assessments of public opinion and frequently cite the terms ‘community sentiments’ and ‘community expectation’ when awarding sentences (Public opinion on sentencing, 2013). Therefore, it is important that the community is given a correct understanding of the crime and the situation in which it was conducted in order for them to deduce accurate information about its nature, which will in turn inform their views regarding appropriate punishments.

In addition, contrary to public perception, Australian courts have not been as lenient. The perceived leniency of the courts towards crime of heinous natures reported in the media often leads to such sentiments. Moreover, the increasing rates of imprisonment can be explained by the fact that there are new laws being passed, longer sentences, more prosecutions based on criminal law and reductions in parole and other alternatives which are contributing to the overall inmate population, and give the perception that crime is increasing. In contrast, different policies and legislation may have contributed more towards overcrowded prisons rather than an increase in crime rates.

Therefore, it is evident that public opinion has the power to influence legislation and political agendas. Thus, it also makes it evident that a proper awareness regarding the crime be provided to the public in order for them to be properly informed regarding the context of crimes and overall reasons for rising incarceration. While, a greater focus on rehabilitation and education efforts for prisoners rather than harsher sentences would reduce recidivism, there also needs to be substantial efforts to educate and inform the Australian public about the correct facts. An uninformed public can potentially influence legislation that would bring about harsher sentences, and further contribute towards the problem. In this regard, state councils that provide information to the community through publication of information which relates to crime research, information on sentences, crimes and convictions can be launched in order to enhance their understanding and knowledge of these matters. Along with state councils, the role of the mass media will be critical in this regard.

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