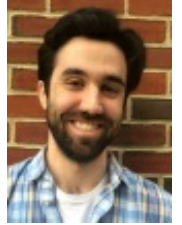


# Why pursuing more rehabilitative policies may actually lead to harsher punishments for prisoners.

[blogs.lse.ac.uk/usappblog/2017/04/06/why-pursuing-more-rehabilitative-policies-may-actually-lead-to-harsher-punishments-for-prisoners/](https://blogs.lse.ac.uk/usappblog/2017/04/06/why-pursuing-more-rehabilitative-policies-may-actually-lead-to-harsher-punishments-for-prisoners/)

2017-4-6

*In recent decades prison policy has reoriented towards measures which try to rehabilitate, rather than punish offenders. While this discourse may appear to be beneficial to inmates, [Anthony Grasso](#) warns that it may actually make incarceration even more punitive for some inmates. Rehabilitative policies, he writes, often lead to harsh punishments for those who commit new crimes despite treatment. By overlooking the societal and economic inequalities which drive criminal behavior, such policies can actually feed into the politics of criminal justice hardliners.*



In recent years, America's distinction as the [world's leader in incarceration](#) has become a subject of political debate. This increased attention has prompted groups and organizations which support reforms to demand that policymakers address America's prison crisis. One idea with appeal to the [left](#) and [right](#) has been to reorient prisons towards rehabilitating offenders, a commitment policymakers abandoned in the 1970s immediately preceding the prison boom.

At first glance, this seems consistent with a progressive politics. Prison-based interventions can offer institutionalized men and women meaningful opportunities they may not have otherwise had. But contemporary reformers should be cautious in advancing rehabilitative proposals. Since its origins, the "rehabilitative ideal" of American criminal justice has always incorporated a justification for harsh punishment.

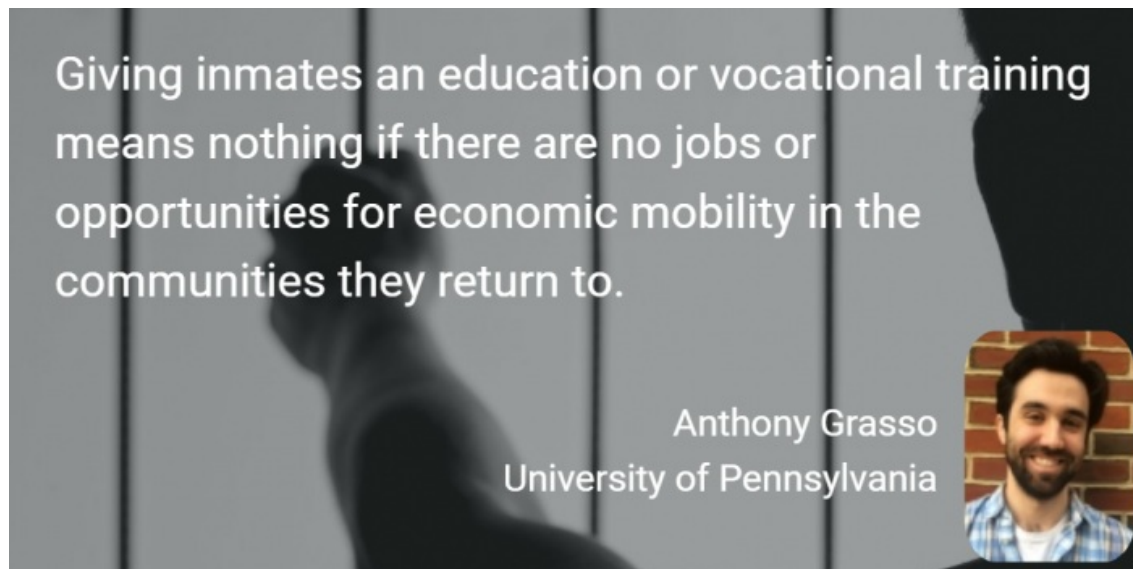
In-prison rehabilitative interventions like educational programs, vocational training, and good behavior incentives are generally presented as ways of providing offenders with skills and knowledge to help them lead law-abiding lives upon release. But whenever rehabilitative discourse has emerged in American politics, it has brought with it harsh punishments for "incorrigible" and "habitual" offenders who commit new crimes after exposure to rehabilitative treatment. A revival of rehabilitation will likely exacerbate the politics driving incarceration rates by prompting crackdowns on so-called "incorrigibles."

The reason why has to do with the logic of rehabilitation. The notion that rehabilitating offenders can prevent crime rests on the assumption that all sources of and solutions to crime are within individuals. But giving inmates an education or vocational training means nothing if there are no jobs or opportunities for economic mobility in the communities they return to. Describing rehabilitation as a "cure" for crime attributes recidivism to the failings of individuals and disregards how structural socioeconomic inequalities contribute to criminal behavior. This encourages proponents of the rehabilitative model to couple progressive politics with harsh punishments for incorrigibles.

Several historical cases demonstrate this double-edged logic in practice. Rehabilitation emerged as a philosophy of punishment in the late 1800s when Zebulon Brockway, the warden of New York's Elmira Reformatory, popularized it. Elmira's nationally acclaimed indeterminate sentencing system released inmates before the end of their sentence if they demonstrated adequate rehabilitative progress. But Elmira also locked up many inmates for extended periods and physically and psychologically abused others. This is because Brockway believed that some people were "born criminals" destined to lead lives of crime due to biological defects which impeded their capacity for moral and rational thought. These individuals required longer terms and harsher punishment.

Prominent nineteenth century scholars like Arthur MacDonald, Henry Boies, and Charles Henderson accepted Brockway's reasoning. They were particularly fond of the indeterminate sentence, which became a two-pronged tool for reforming and releasing reformable offenders and identifying and containing incorrigibles. Consequently, states

that passed indeterminate sentencing laws towards the end of the century saw increases in average terms of confinement for inmates. Indeterminate sentencing is often considered a “soft” approach to punishment today, but it was designed to work in benevolent and punitive directions.



The dangers of rehabilitative ideology are particularly clear in its links to the eugenics movement of the early twentieth century. The biological character of the “born criminal” idea led Brockway, Boies, and other scholars who defended rehabilitation to also defend the compulsory sterilization of incorrigible criminals in order to prevent their genes from spreading. Leaders of the eugenics movement like Charles Davenport and Harry Laughlin routinely cited these scholars when arguing that state laws sterilizing “undesirables” like the feeble-minded should also target criminals. By 1931, twenty-eight states permitted compulsory sterilizations of prison and jail inmates.

Into the 1980s, after policymakers allegedly abandoned the “rehabilitative ideal,” remnants of it shaped policies that directly facilitated the prison boom. The 1984 Sentencing Reform Act, which replaced the federal indeterminate system with a harsh guidelines regime, is often depicted as rejecting rehabilitation. But the guidelines recognized rehabilitation as a goal of punishment and authorized confinement in substance abuse, mental health, and similar facilities as potential conditions of probation. This reflected the gentle side of rehabilitative philosophy, but the punitive flipside manifested elsewhere. The guidelines sharply increased sentences based on a defendant’s criminal record, previous exposure to rehabilitative treatment, and other “relevant conduct” under the logic that such history demonstrated insufficient reformatory potential.

Now, as in the past, rehabilitative discourse masks the social and economic forces that contribute to crime. In a neoliberal political climate where social inequality is attributed to individual failings, a reinvigoration of rehabilitation will likely justify a doubling down on incorrigibles who fail to reform. It doesn’t help that biological studies of crime are experiencing a renaissance. Bio-criminology provides an intellectual justification for harshly punishing those deemed incurable. America is not resistant to a revival of eugenics; since 1996, nine states have enacted laws authorizing chemical or surgical castrations for sex offenders. [Prosecutors](#) and [prison officials](#) in several others have illegally coerced inmates and defendants into sterilizations. Any revival of rehabilitation is likely to play into these kinds of punitive instincts.

This isn’t to say that rehabilitative interventions are worthless. Educational programs, vocational training, early release incentives, and the like all have intrinsic value and should be offered in jails and prisons on their own merit. But reformers must recognize the dangers of rehabilitative ideology. Prison programs with rehabilitative motivations can pacify prisoners and emphasize personal responsibility in ways that overlook the structural causes of inequality and mass incarceration. Rehabilitation’s narrow focus on personal improvement obscures how [failing schools](#), [crippling joblessness](#), and [government neglect](#) contribute to crime in the low-income communities most offenders

hail from. A focus on correcting individuals should not leave progressives complacent by easing their urgency for structural reform. And reformers must be vigilant of the ways in which rehabilitation can feed into the politics of criminal justice hardliners.

This is why rehabilitation should not be understood or presented as a crime reduction measure. A true commitment to reducing crime has to recognize that criminal behavior is not just a function of personal agency that can be solved by fixing people—it is also a product of the social and economic inequities of American life. A commitment to reducing crime means reforming our public education system so that inmates don't need in-prison GED programs in the first place. It means public investment in poor neighborhoods to spur growth and create jobs where returning offenders can put their education or vocational training, which they may have received behind bars, to good use. It means [banning the box](#) so that former inmates can get their foot in the door at a job interview. It means investing in public housing—and granting ex-felons access to it—so that they have a place to sleep while they get back on their feet. And it requires guaranteeing that they will earn a livable wage when they find a job and have access to healthcare, welfare, and workplace representation if they need it.

Rehabilitation is a political approach to punishment. It delineates what types of individuals deserve social and political equality and limits the state's range of crime reduction measures to individual level interventions. This absolves the state of any duty to pursue the comprehensive changes necessary to make a tangible difference in ex-offenders' lives. Without reforming the fundamental social and economic inequalities that contribute to crime, rehabilitative discourse will once again generate a backlash against some of the nation's most vulnerable citizens.

*This article is based on the paper, 'Broken Beyond Repair: Rehabilitative Penology and American Political Development', in Political Research Quarterly.*

*Featured image credit: Niklas Morberg (Flickr, CC-BY-NC-2.0)*

[Please read our comments policy before commenting.](#)

*Note: This article gives the views of the author, and not the position of USAPP – American Politics and Policy, nor of the London School of Economics.*

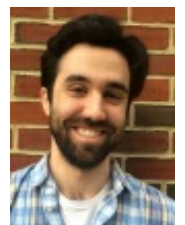
*Shortened URL for this post: <http://bit.ly/2oEQNlu>*

---

## About the author

**Anthony Grasso** – *University of Pennsylvania*

Anthony Grasso is a doctoral candidate in political science at the University of Pennsylvania. His research focuses on American political development, public policy, and criminal justice.



- Copyright © The Author (or The Authors) - Unless otherwise stated, this work is licensed under a Creative Commons Attribution NonCommercial Unported 3.0 License.