

**Retribution or Rehabilitation? A Comparison of Penal System Across Democracies:
Norway, Japan, and the United States
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Abstract

This paper examines the underlying determinants of penal systems in Norway, Japan, and the United States. Though these three countries possess characteristics of developing democracies, their contrasting political, economic, and social cultures have resulted in three completely different penal objectives and systems. Through analysis of scholarly articles in the fields of international law and international relations, I explore the factors that have caused these countries to diverge in their penal processes. I find that conflict political systems, individualistic social values, and capitalist systems with low investment in welfare lead to higher imprisonment rates and retributive penal policies. Optimal methods and policies that can be used to serve justice and rehabilitate offenders simultaneously are also included.

Unless someone or their loved one has ever experienced incarceration, the probability that that individual has a critical understanding of their country's penal process is low. Prisoners are the outcasts of society; they are locked away to demonstrate to the rest of society what can happen to them if they do not abide by its rules. As a result, people learn to dehumanize prisoners and see them as the "other." Both physically and socially, prisoners are completely isolated from mainstream society, leaving the ins and outs of the penal systems unknown to most of society. An international trend of penal systems implementing harsher penal policies that are less protective of human rights calls for an inquiry into the determinants and theories at the root of these systems.

Upon examining a country's penal system, one can learn what society recognizes as acceptable. Some behaviors can earn praise in one country and a death sentence in others. Why does a country that overzealously celebrates its freedom maintain the highest imprisonment rate in the world? How does a country with an average sentencing period of eight months maintain a low recidivism rate (Norwegian Correctional Service, 2023)? These questions have led to the central question posed in this paper: What factors shape a country's penal system?

A comparative analysis of Norway, Japan, and the United States is helpful in understanding the determinants of penal systems. Through analysis of academic scholarship in international law and international relations, it becomes clear that in each of these three developed democracies, the combination of a country's political, economic, and social objectives culminates in shaping each country's unique penal system. I find that countries with capitalist systems and low welfare spending, individualistic values, and conflict political systems tend to have harsher and more retributive penal systems than socialist countries with collectivist values, investment in social welfare, and consensus political systems. In developed democracies, economic, political, and social values determine penal systems. Understanding what factors

affect specific penal systems will globally provide future policymakers and citizens with the tools necessary to prevent and contain crime without violating human rights.

First, I provide background on Norway, Japan, and the United States penal systems. Then I provide a review of scholarly literature regarding the determinants of penal systems. I proceed with a comparative analysis of Norway, Japan, and the United States' penal systems. The analysis of these three case studies sheds light on why some countries have rehabilitative penal systems, whereas others have retributive ones. Finally, I deliver suggestions for future policymakers regarding penal systems and how to form a system that serves each country's goals while humanely and appropriately punishing and reintegrating criminal offenders.

Context

Before exploring the factors that determine each country's penal systems, it is necessary to understand the type of penal systems these countries have in place. For the purposes of this paper, a penal system is defined as a country's procedures and rules that lead up to and follow an individual's criminal conviction. First, I explore Norway's penal system. The primary objective of Norway's penal system is to rehabilitate its prisoners. Ultimately, the Norwegian penal system aims to provide prisoners with the resources needed to succeed outside of prison. As a result, incarceration is temporary; capital punishment has not existed in Norway since 1901, and life sentences have been abolished since 1981 (Benko, 2018). The maximum allowed prison sentence is 21 years (Benko, 2018). Consequently, Norway has a low imprisonment rate of 72 prisoners per 100,000 people and a recidivism rate of 25 percent (Benko, 2018). In addition, most non-serious offenses are penalized by fines, with half of the inmates serving time for more severe offenses such as murder, assault, and rape (Labutta, 2017).

Norway adheres to its rehabilitative philosophy by creating a sense of normalcy in its prisons while following a dynamic security system. Dynamic security prevents inmates from developing bad intentions rather than simply preventing them from acting upon them (Labutta, 2017). Consequently, prisoners move freely around the prison grounds, have access to tools and materials that may be considered dangerous in other systems, have personal and trusting relationships with the guards, and have little to no violent conflict with other inmates. Prison staff view and treat inmates humanely, allowing their environment to mimic a normal life (Johnson et al., 2011).

While Norway prioritizes rehabilitation, the United States' penal system focuses on retribution. The United States penal system is centered around punishing convicted persons for their crimes (Labutta, 2017). The United States has the world's highest imprisonment, average prison sentencing times, and recidivism rates. Two-thirds of prisoners released are rearrested within three years, and three-fourths are arrested within five (Labutta, 2017). Lastly, the United States holds 22 percent of all incarcerated people globally, despite composing 4.25 percent of the world's total population (Benko, 2018).

The United States penal system follows its philosophy of retribution by having a static security system. In contrast to Norway's dynamic security, static security assumes antagonism from the prisoner and prevents an inmate with bad intentions from carrying them out (Labutta, 2017). Contrary to the Norwegian prison environment, inmates are not allowed to move freely; they are constrained by shackles when moving throughout the prison, and there are no allowed items or materials that could be used as a weapon. Inmates who violate rules, disobey officers or guards, or have conflicts with other inmates are also at risk of being placed in solitary confinement while incarcerated (Vasiliades, 2005). It is unclear whether this approach has

enabled the United States to punish criminals justly. The United States is infamous among the international community for disproportionately incarcerating people of color and the lower class (Tonry, 2009). The structure of the United States penal system aims to punish people more harshly. However, it has not yielded better and more rehabilitative results.

While the United States and Norway are two examples of extremes, Japan's penal system provides a middle ground. Japan has many systemic features found in Western countries: high job security, a progressive career culture, and moderate unequal income distribution (Cavadino & Dignan, 2006). Unlike the United States but more in tune with Norway, Japan's society values inclusion and collectivism, and these social values are reflected in its penal system. Japanese society views the crime committed by an individual as a burden to be shared by the society, thus following the collectivist philosophy that an individual's rehabilitation improves the community. When one person commits a crime, society must help them rehabilitate to contribute to a better society. This philosophy demonstrates why juvenile offenders often avoid formal prosecution. Furthermore, apologies can heavily reduce an accused's chance of being incarcerated (Chung, 2016). Japan has some of the lowest incarceration rates in the world and the lowest homicide rate in the world (Johnson, 2011).

More recently, Japan has experienced increased capital punishment and fear of crime. Criminal offenses, arrests, and incarceration rates increased due to reforms in law (Johnson, 2007). As a result, prisons have overcrowded, contributing to human rights violations such as coerced confessions and increased violence between inmates (Johnson, 2007). There is also a lack of resources for mentally ill prisoners, which has led to early release from prison and prevention of proper treatment (Watts, 2001). While Japan's social values have contributed to

low incarceration rates in the past, recent media and laws trends suggest a similar penal system trajectory to that of the United States.

Literature Review

The examination of the American, Norwegian, and Japanese penal systems in the previous section exhibits that regardless of political and economic similarities, these countries still define and carry out penal punishment in distinct ways. These distinctions lead to the question: Which factors determine penal policies across developed democracies? In the next section, I review the scholarly literature exploring the determinants of penal policies across developed democracies.

Several scholars have identified social values and culture as determinants of penal policy. Culture has been primarily recognized as a determinant of penal policies because a country's values determine the outcomes a government seeks from incarceration (Lacey et al., 2018). A small, racially homogeneous country that values trust and solidarity has less severe penal policies than a large, racially diverse country that values individualism. The severity of punishment and the prison system's operations especially depend on the culture of trust.

Whether or not citizens trust one another impacts the extent to which a penal system utilizes security and surveillance for its prisoners (Lappi-Seppälä, 2007). Similarly to social culture, a country's racial and religious makeup may also influence its penal policies. Michael Tonry demonstrates that Anglo-Saxon countries have the highest imprisonment rates compared to the rest of the globe (Tonry, 2007). There is also scholarship suggesting that countries with racially homogeneous populations are more likely to have lower incarceration rates because there is less probability of racial discrimination and bias (Lacey et al., 2018). Furthermore, the less

racial diversity a country has, the fewer conflicts and differences can arise between groups. On the other hand, racially heterogeneous countries have proven to discriminate against the same racial minorities on a disproportionate scale. The same issue applies to religion as well. Religious minorities face persecution in countries where religious minorities are protected and in countries where they are not (Lacey et al., 2018).

Aside from social culture and a country's racial and religious composition, political culture is widely regarded as a determinant of penal systems. Lijphart (1999) found that countries with consensus systems, such as governments with coalitions and proportional representation, achieve more humane penal policies than countries with conflict systems (Tonry, 2007). Conflict systems refer to governments with two-party and first-past-the-post electoral systems (Lacey et al., 2018). A country's political system impacts its penal system because a two-party system can heighten conflict and intensify debates, especially regarding criminal justice. Penal policy is often a strong point of debate during conflict system elections, where parties oppose one another. Furthermore, civil servants such as judges and prosecutors can be politically elected, signifying that public opinion significantly drives their decisions to remain in power (Tonry, 2007). In consensus systems, however, several different parties participate in the government, allowing more diversity of opinion in decision-making.

Thus, radical policy changes, including penal policies, are less likely (Tonry, 2007). Several scholars have explored the significance of economic systems and forces on penal systems. Countries with capitalist systems that value competition and private property thrive from controlling social outcasts and the marginalized (Lacey et al., 2018). Studies exhibit that unpaid, forced labor from prisoners is highly utilized in capitalist countries that take advantage of cheap labor. Furthermore, many crimes are often the product of their environment; poverty

may lead to theft, lack of a stable home or education may lead to gang violence or drug usage, and the homeless get punished for loitering. While legitimizing the capitalist systems and values, societies continue to teach that what benefits or legitimizes the economic systems in place is moral, and what defies the economic status quo is immoral.

There is significant scholarship demonstrating that mass media also shapes penal systems. The bias that occurs when editors choose to exaggerate specific stories impacts communities significantly. For example, media coverage that consistently emphasizes high-profile crime cases of murder, rape, and assault and fails to cover lesser crimes such as theft and traffic violations skews a population's perception of safety in their country (Chung, 2016). Countries with press that profits from scandalous headlines follow this pattern, while countries with regulated and diverse media may not (Tonry, 2007). It is common for media exposure to depend on popularity and ratings. Once the population's perception of crime and safety is tainted, this affects the policies and politicians they approve of, driving a country's arrest and incarceration rates.

Despite existing research on the factors determining a country's penal system, several gaps still need to be answered. While many studies examine penal systems of distinctly contrasting cases, such as Norway or the United States, they still fail to include cases that fall in between. When authors do provide a spectrum of penal systems, the countries studied tend to be English-speaking or Western. There is ample research on the penal systems of Western and European countries but little regarding the rest of the international community. Though I am still focusing on countries with developed democracies to allow for an equal level of comparison, Japan has a distinct culture that does not exist in the Western world. Examining Japan, a distinctive penal system from the United States and Norway, allows me to compare how social,

political, and economic cultural differences affect penal policy. Furthermore, when research solely focuses on extreme cases, findings may not be generalizable to the broad international community. With more case studies, there are more determinants to explore and more ways to understand the workings of penal systems across the globe.

Furthermore, existing research heavily assumes that there has been an international punitive change in which more countries' imprisonment rates have increased steadily. Thus, scholars attempt to explore why this change has occurred. However, I am attempting to understand why countries have the penal systems they have in the first place. I am contributing to this body of work by exploring penal systems as their determinants lie at the root of these changes. I hope to provide global policy suggestions to humanely punish and rehabilitate criminal offenders.

Theory and Methodology

In this paper, I argue that the interaction of a country's social, economic, and political attributes shapes its penal system. I expect to find that countries that socially value individualism over inclusivity, have conflict-based political systems, and uphold capitalist market economies are more likely to have retributive rather than rehabilitative penal systems. This hypothesis derives from scholarly literature from authors Tonry, Johnson, and Lappi-Seppälä suggesting that countries possessing these characteristics tend to have higher incarceration rates and harsher prison conditions. Empirical evidence and theories about the effects of social, economic, and political values on policymaking confirm culture's role in determining "both specific policy outcomes and general approaches to policy in different places" (Muers, 2018). Several prominent scholars, such as Inglehart (1990), Pierson (2000), and John (1998), have written extensively

about the role of culture in policymaking. I use their work to support my argument that a belief in the free market, individualism, and two-party systems can lead governments to be harder on crime and be urgent to separate criminals from the rest of society. Scholars find this to be the case, especially in democracies, where elected officials in the executive, legislative, and judicial branches are held accountable by public opinion through the electoral system.

Analysis

In this section of the paper, I use scholarly articles and books on international law and international relations to showcase how conflict-based political systems, market economies, individualistic societies, and profitable mass media characteristics lead to more retributive penal systems. First, I describe how systemic features in Norway, Japan, and the United States lead to contrasting penal systems. Then I provide a comparison of the main differences between these countries' penal systems. I conclude the section with policy implications and future considerations.

Norway

Norway is internationally recognized for its exceptional penal system, especially concerning imprisonment rates and prison conditions (Johnsen et al., 2011). Norway has an imprisonment rate of 70 per 100,000 persons and a 20 percent recidivism rate, the lowest rate in Scandinavia (Benko, 2018). Norway's impressive rates attribute to its strong culture of solidarity and trust, which stems from an extremely high investment in its social welfare and belief in equality of opportunity (Lappi-Seppälä, 2007). In Norway, all citizens have guaranteed healthcare, pension, and education, regardless of employment or social status (Lappi-Seppälä,

2007). These universal benefits have led to lower levels of economic disparity and less social marginalization (Benko, 2018). These political and economic characteristics are embedded in a strong cultural belief that all Norwegians deserve to be treated equally and have access to the same resources, which in turn is reflected in Norway's prison culture ([Lappi-Seppälä, 2007](#)). Scholars define Norway as a corporatist social democracy, or a country with high taxes and a generous and economically secure welfare state (Cavadino & Dignan, 2006; [Lappi- Seppälä, 2007](#)). In this system, the Norwegian government is directly responsible for protecting the security of the young, elderly, and ill (Cavadigno & Dignan, 2006). Whereas Japan relies more on the family or social circles and the United States relies on the individual, in Norway, the state plays a very active role in social welfare. For example, the Norwegian government spends USD 93,000 per inmate annually, while the United States spends USD 31,000 (Benko, 2018).

Equality is necessary to maintain the value of trust and solidarity in Norway because it reduces pressure toward incarceration ([Lappi-Seppälä, 2007](#)). Norway provides more protections such as high-quality education, healthcare, and investment in family, preventing crimes committed when these needs are unmet ([Lappi-Seppälä, 2007](#)). Norway's political and economic cultures help create an environment with various informal social controls, allowing the Norwegian penal system to maintain less punitive policies and find alternatives to formal punishment (Lacey et al., 2018). Welfare and social equality have promoted trust and legitimacy in the government and amongst one another, enabling a society that complies with social norms and keeps crime rates low ([Lappi-Seppälä, 2007](#)).

Equality of outcome is significant in Norway because it has a mutually symbiotic relationship with its economic system. From an economic standpoint, when equality is

threatened, so is Norway. Norway has a coordinated market economy that includes diverse social groups and institutions (Lacey et al., 2018). Thus, Norway's economic system cannot afford to exclude large groups of prisoners from society for extended periods; policymakers need to reintegrate offenders into society and the economy. Thus, policymakers are incentivized to prevent penal policies that attempt to extend prisoners' sentences or successful reintegration into society (Lacey et al., 2018).

Another characteristic that shapes the Norwegian system is its political system. Norway's political system is a consensus system, meaning that it is a political system based on bargaining and compromise (Tonry, 2007). A diversity of thought within the government enables Norway to have a more humane prison system than countries with other political systems. Lappi-Seppälä (2007) states, "Consensus democracies are able to produce stronger welfare regimes and to produce better chances for rational and human criminal justice policies" (Lappi-Seppälä, 2007, p. 279). Whereas in other systems, politicizing conflict and winning elections are the priority, consensus systems require the support of more voices, making it more likely for humane and just penal policies to be put into practice. Low imprisonment rates are byproducts of consensual, corporatist, negotiating political cultures (Lappi-Seppälä, 2007).

Therefore, the primary objective of Norway's penal system is to prepare its prisoners to reintegrate into society after imprisonment. Norway achieves this by structuring the infrastructure and organization of its penal system with a commitment to normalcy (Labutta, 2017). For example, Norway's maximum-security prison, Halden Fengsel, is recognized as the world's most humanitarian maximum-security prison (Benko, 2018). Halden Fengsel has no lethal electric fences, snipers, or razor wire and is instead surrounded by a large wall, reminding prisoners of their punishment (Labutta, 2017). Prisoners can even roam the grounds

unaccompanied by guards because of the two groups' relationship. Prison staff are trained to view and treat prisoners as human beings and frequently socialize with prisoners in common rooms (Benko, 2018; Johnsen et al., 2011). Norway's penal system depends on a culture of trust to function, and it works, demonstrating that rehabilitation and reintegration are the main objectives of penal punishment.

The sentencing structure in Norway's penal system differs radically from that of Japan and the United States. Capital punishment has been abolished for 121 years to reintegrate criminal offenders properly, and life sentences have been abolished for 42 years (Benko, 2018). The motto of the Norwegian Correctional Service is "Better out than in" (Benko, 2018). Prison is not a permanent or long-term placement for prisoners; the maximum allowed sentence is five years, with a possibility of sentence reinstatement if an individual breaks the law again (Benko, 2018). Fines punish most non-serious offenses, and the average prison sentence is eight months (Labutta, 2017). Furthermore, the Norwegian Correctional Service works with other government agencies to secure an inmate's home, job, and social support system before release (Benko, 2018). These penal policies benefit the Norwegian economic system while the government also commits to helping the offender rehabilitate.

These short sentences may seem alarming to victims. Even Anders Behring Brevik, who killed 77 people and injured hundreds more in 2011, only spent 21 years in prison (Benko, 2018). However, in Norway, fear and anger surrounding crime are low due to high trust in institutions and the community. Eighty percent of the Norwegian public approved Brevik's sentencing, including most victims' families (Lappi-Seppälä, 2007). Even Brevik himself accepted his sentencing without a motion to appeal. Norway's public trusts its institutions highly,

demonstrating that most meet the penal system with cooperation (Lappi-Seppälä, 2007). (Lappi-Seppälä, 2007).

Lastly, Norwegian media functions differently than in other Western countries. Due to high trust in institutions, Norwegians are less susceptible to sensationalist media and conflict, preventing punitive populism (Lappi-Seppälä, 2007). Norway sells its newspapers by subscription instead of in newsstands. Thus, the profit received from a news article with a sensationalist, gruesome title does not strongly differ from a standard title, and the public does not have an irrational fear of crime (Tonry, 2007). Even some of the most high-profile crimes in Norway are only covered in the media for a few days (Tonry, 2007). Norway's socialist values of trust and solidarity, social democracy, and consensus political system allow for lower crime rates and more humane prison policies.

Japan

While Norway's penal system is defined as social democratic corporatism, Japan's social and political culture is identified by scholars as orientalist corporatism (Cavadino & Dignan, 2006). Japan's economic and political systems are comparable to the United States, yet its cultural attributes are more similar to Norway's. Japan's income distribution is less equal compared to Norway and Sweden and is trending towards becoming even less equal, although it is still more equal than the United States (Johnson, 2007). Nevertheless, Japan is socially relational, with solid relationships and a sense of social duty within families and the workforce (Cavadino & Dignan, 2006). Despite its economic inequalities, social inclusion is significant in Japan, and a Japanese person is unlikely to face such exclusion (Cavadino & Dignan, 2006).

Japan's reliance on community and strong social norms enforces its low crime rate. Japan holds the world's lowest homicide rate, along with one of the lowest imprisonment rates (Johnson, 2007). Japan's inclusive society serves as a means of social control because it fosters many social norms that prevent a Japanese offender from reaching the point of a criminal conviction. For example, in Japan, the sense of the individual is completely overpowered by the fervor to be accepted within the community and maintain strong relationships (Cavadino & Dignan, 2006).

Therefore, the Japanese penal system awards criminal offenders who voluntarily apologize and confess their actions, which occurs often. Japanese offenders aim to restore the losses and harm they caused the community (Cavadino & Dignan, 2006). Apologies play a crucial role in the accused's capacity for rehabilitation and can prevent them from facing sentencing completely, particularly for juvenile offenders. Of juvenile offenders or offenders under the age of 20, 99 percent do not face formal prosecution (Cavadino & Dignan, 2006). Japan's prioritization of inclusion is evident in its positive reinforcement of apologies and confessions, demonstrating the power of social values on Japanese penal policy.

However, those who fail to apologize or confess confront much harsher penal punishment. More than 99.9% of cases in Japanese courts pursued by prosecution result in convictions (Kashiwagi & Hirabayashi, 2018). Those who are more likely to commit crimes are already not included within the community, excluding them from the mutual accountability that one would find within a Japanese community (Kashiwagi & Hirabayashi, 2018). Individuals who fail to meet Japanese social norms by not demonstrating social remorse and challenging Japanese hierarchical forces are excluded from society (Chung, 2016). Convicted criminals bear their conflict as individuals, compared to their Japanese counterparts, who face them collectively with

peer support and relationships (Johnson, 2007). For Japan, inclusivity and conformity are incredibly significant, and failing to comply may result in exclusion.

The excluded are harshly penalized because, in contrast to Norway, Japan's economic system does not provide welfare or social support for its prisoners to reenter society. As an oriental corporatist society, Japan has low welfare spending (Cavadigno & Dignan, 2006). Thus, prison educational programs, professional and career training, and government-sponsored halfway transition houses that would help prisoners reintegrate into society following release do not exist (Baradel, 2019). Instead, every Japanese prison has a factory, where all Japanese prisoners must work eight hours daily (Moriyama, 2014). Therefore, once the Japanese government has deemed someone irredeemable and unable to adhere to Japanese values, there is no support for prisoners to build a new life.

Recently, Japan has been experiencing *genbatsuka*, an escalation in imprisonment and severity of punishment, attributed to the myth of the collapsing society (Chung, 2016; Hamai & Ellis, 2008). Following a high-profile mass murder committed by a mentally ill man in Osaka, media coverage shed light on inadequate resources for treating mentally ill offenders (Watts, 2001). Subsequently, a study revealed a decline in the public's perception of Japan as a secure nation and a worsening social order (Johnson, 2007). Japan amended its penal code for the first time in a century (Chung, 2016). Victims' families' participation in criminal proceedings expanded, Japan's imprisonment rate rose by 45 percent in eight years, and capital punishment increased by 70 percent in only 16 years (Matsui, 2011; Chung, 2016; Johnson, 2007).

These changes emphasize that the media significantly influence public opinion in Japan. The media intentionally covers only sensational and grotesque crimes, especially ones involving wealthy victims, to gain viewership (Chung, 2016). Biased coverage perpetuates a clear cycle of

genbatsuka and punitive policy: media reports fuel citizen demand, promoting laws and policies supporting genbatsuka, ultimately influencing judicial decisions (Chung, 2016). Nevertheless, Japan's maintenance of its low imprisonment and crime rates suggests that its inclusive culture is one of Japan's strongest determinants of penal policy.

In Japan's parliamentary system, the Prime Minister and the cabinet, including the Ministry of Justice, exercise control over the penal process. Japan's legislative and executive parties are tied under the control of the Liberal Democratic Party (LDP), signifying that all political branches have the same political objectives (Chung, 2016). When the LDP's popularity decreased, fear of crime rose, and criminal issues became a political tool to regain public support. The Prime Minister then issued a 150-point action plan to combat crime and "reestablish Japan as the safest country in the world" (Chung, 2016). Thus, the media and politicians have cooperated to increase punitive populism. While Japan's inclusive characteristics have prevented high imprisonment rates, if the Japanese government continues to politicize penal policy and fall into the mass media traps, it may fall in the footsteps of the United States.

The United States

As the epitome of an individualistic and capitalist economic system, the United States penal system contrasts sharply with Norway and Japan. Individualism and inequalities are consistently reinforced in the United States, diminishing social unity and trust between Americans and the government (Lappi-Seppälä, 2007). Both forms of trust are crucial for social control and political responses to law violations (Lappi-Seppälä, 2007).

Unfortunately, the decline in trust and weakening of community ties, low investment in welfare, and a conflicting political system have shaped the United States penal system into one of the harshest in the world (Lappi-Seppälä, 2007).

The United States is a capitalist system that values competition and private property. The United States is often described as a neoliberal economy, defined as "economic liberalism based on free market capitalism" (Cavadino & Dignan, 2006, p. 440). This economic approach translates into a minimalist welfare state where the government allocates few resources to welfare programs and benefits. Consequently, the United States has significant income disparities, leaving the lower classes without access to health care, retirement pensions, and basic income (Cavadino & Dignan, 2006).

The lack of social welfare in the United States leaves individuals more susceptible to the injustices inherent in capitalist systems (Cavadino & Dignan, 2006). For example, the privatization of property allows cities to criminalize the homeless for loitering, and the lack of welfare systems leads some to engage in illegal activity for survival (Platt, 1982). The United States penal system legitimizes capitalism by penalizing individuals for poverty or unemployment, despite poverty being an inevitable product of capitalism (Lacey et al., 2018). Responsibility for crime, rehabilitation, and reintegration falls entirely on the individual, not the government or the economy (Cavadino & Dignan, 2006). In contrast, countries with low levels of inequality, such as generous welfare states, produce less stressing crime problems by providing safeguards against social marginalization (Lappi-Seppälä, 2007).

US individualism is also evident in its penal system because it practices static security, which assumes inmates possess bad intentions and prevents them from carrying them out (Labutta, 2017). As US capitalism criminalizes marginalized individuals and prisoners get longer

sentences, there is a higher likelihood of cultivating fear of prisoners (Tonry, 2009). Static security is a significant distinction from Norway's dynamic security, where there is more trust between staff and inmates, and the goal is to remove bad intentions in the first place (Benko, 2018). Even from the United States' practice of dynamic security, harsh sentencing, and use of capital punishment and confinement, it is evident that its main objective is not rehabilitation but rather retribution. Even with efforts to rehabilitate, the onus is placed primarily on the individual, and their healing is as significant to the rest of society.

The United States' conflict political system has resulted in a loss of public confidence in the American political system, contributing to the rise of punitive populism (Pratt & Clark, 2005). The United States has a two-party winner-take-all system, also known as a conflict system (Tonry, 2009). During election campaigns, a competing party invests significant time and money in identifying issues with the opposing party or current ruling party. While politicians attack one another in hopes of taking votes away from the opposing party, it affects how the public perceives public policies and political institutions (Lappi-Seppälä, 2007). Thus, there is less trust in public institutions and government systems, which is common among conflict systems.

The wavering trust within US communities that results from America's conflict system is responsible for harsh US penal policy. The United States is distinct from other Western countries in that prosecutors and judges are selected politically rather than chosen by a government official. As trust in the government to protect and serve the people decreases, the spread of fear and a desire for vengeance increases (Labutta, 2017). In the United States, the public believes that crime rates are increasing even when decreasing and prefer more punitive policies rather than an investment in rehabilitative programs (Tonry, 2009). As a result, policymakers enact punitive policies to display that the government is responding to the public and to help

politicians get reelected rather than reducing crime (Lappi- Seppala, 2007). Thus, the United States has the highest imprisonment globally (over 750 per 100,000 people), a significantly high homicide rate compared to other developed countries, and accounts for a quarter of the world's incarcerated population despite representing less than five percent of the global population (Labutta, 2017; Tonry, 2009; Gaynor, 2018).

It goes without debate that the individualistic, majoritarian, and capitalistic attributes of the United States have resulted in a uniquely harsh and retributive penal system. Three-strike laws immediately sentence offenders to a 25-year minimum sentence, juveniles can be prosecuted as adults if they are nearing age, many are sentenced to Life Without Parole, and the average prison sentence is 27 months (Tonry, 2007). While crime rates have fallen steadily since 1991, imprisonment rates have risen by more than five times since 1973 (Tonry, 2007). Furthermore, international human rights organizations have condemned the United States for its inhumane use of prolonged solitary confinement because they are "not designed for humanity" (Vasiliades, 2005). This harsh sentencing and lack of focus on rehabilitation align with the United States individualist belief that individuals are solely responsible for their actions and fend after themselves (Cavadino & Dignan, 2006). The United States penal system focuses on retributivism, or the belief that a crime must be met with punishment.

Comparative Analysis

I have chosen to analyze the Norwegian, Japanese, and American penal systems because together, they provide a spectrum of penal policy. While Norway and the United States penal systems are at opposite ends of this spectrum, Japan serves as a perfect middle-ground case,

sharing commonalities with both Norway and the United States. As a result, the variation in these case studies allows for a better understanding of penal policies across democracies.

First, while each country possesses political, economic, and social features that shape its penal systems, some factors matter more than others, depending on the country. For example, Norway's values of trust and equality are the main forces driving penal policy. Although Japan is also a collectivist society, its most significant determinant is conformity within society. For the United States, political elections and capitalism drive its high imprisonment rates and harsh policies. Marginalization in the United States capitalist system is reinforced when specific groups are punished more severely because the system is biased against them. This phenomenon occurs even though the United States relies on these groups to remain stable.

Norway's and Japan's collectivist social values create norms and a culture of mutual responsibility that has prevented many from being imprisoned. While in Norway, an offender still has state-sponsored support for reintegration, a Japanese criminal conviction results in a much harsher penal policy. One may argue that the Japanese penal system before conviction resembles Norway's. In contrast, the penal system is akin to the United States once an offender is imprisoned. On the other hand, in the United States, the low levels of trust towards institutions and general trust among the public have contributed further to increases in imprisonment rates. These comparisons reveal that what occurs before a criminal conviction is equally significant as what happens after a prisoner is convicted.

Cavadino and Dignan (2006) find that the "association of different kinds of political economies with differing rates of imprisonment has more to do with cultural attitudes towards deviant and marginalized social citizens" (Cavadigno & Dignan, 2006, p. 447). In other words, the combination of factors, rather than the individual factors themselves, creates different penal

systems. Following my analysis, it is clear that no social, political, or economic determinant acts independently; each of these factors mutually reinforces each other within each country, no matter the type of system. Furthermore, these countries differ profoundly in their cultural characteristics. Norway's culture emphasizes trust and equality, Japan's emphasizes hierarchy and compliance, while the United States strongly values individualism. Although these countries share some similar characteristics, the specific blend between their social, political, and economic systems results in unique penal systems.

Each country's association with the media also demonstrates the diversity of penal systems. Politics and the media fuse to increase penal policy and imprisonment rates in both Japan and the United States. In Japan, the power of the media is so strong that it has even allowed victims' families to overpower prosecutors and criminal justice officials (Chung, 2016). However, despite Japan's punitive populism, Japan continues to hold one of the lowest imprisonment rates in the world. In contrast, the United States' politicization of penal policy, supported by the use of media, allows it to hold the highest imprisonment rate in the world confidently. The two conflicting outcomes demonstrate the importance of understanding how the two factors interact, not just how they exist alone. In this case, Japan's collectivist values are strong enough to withhold the impact of punitive populism.

Policy Implications

Following a comparative analysis of Norwegian, Japanese, and American penal systems, I find that a significant part of the penal process occurs even before one becomes incarcerated. When countries have established social controls, trust, and a sense of community, imprisonment rates can dramatically reduce. Furthermore, penal policies are a product of the

interaction between economic, social, and political systems, mutually reinforcing one another to either support or reject rehabilitative penal systems (Lacey et al., 2018).

Thus, there is no universal penal formula that functions for every country. For this to be true, all countries have to possess the same social values, the same wealth, the same type of government, and the same type of media. However, some policies can prevent penal systems from becoming too retributive in developed democracies. One policy option is that countries can invest more money in education, health, and crime prevention. President Obama stated, "The best time to stop crime is before it even starts... If we make investments early in our children, we will reduce the need to incarcerate those kids" (Labutta, 2017, p. 358). Although it is unreasonable to expect all developed democracies to follow the Norwegian system, aiming to reduce inequalities in education, health, and income makes a difference in incarceration rates. Furthermore, by reducing incarceration rates, more money will be spent on individual prisoners, creating possibilities for reintegration and treatment. While no policy fits all, a country that trusts its people and institutions, protects and values equality, and has a political consensus system, creates more rehabilitative than retributive penal systems.

Conclusion

My research demonstrates that while many comparative studies of criminal law recognize the differences across penal systems, few aim to understand the reasons why. Those who do understand why often fall into the trap of overestimating certain factors over others due to cultural stereotypes or a lack of comparable measures of punishment. By analyzing the United States, Norway, and Japan in comparison to one another, it becomes evident that differences in economic, social, or political values can completely alter a country's penal system and perception

of punishment. The understanding of the determinants of penal policies is significant to the studies of international relations and legal studies because harmful penal policies can lead to the violation of human rights.

In researching the determinants of penal systems in Japan, the United States, and Norway, I have encountered several problems that could be improved. For example, imprisonment rates are often used as a global measure of punishment, which I also use for this essay. However, each country measures their imprisonment rates differently, resulting in inconsistent comparisons between countries. For example, some countries' rates include juvenile offenders while others do not, and some may even include individuals who have not been fully convicted (Tonry, 2007). Thus, using several comparison measures when analyzing penal systems is essential.

Furthermore, studying culture as a penal determinant may be problematic regarding racial stereotypes. Baradel (2019) considers that many scholarly authors of international law and penal systems are not from the countries they are writing about. Specifically discussing Japan, cultural stereotypes regarding the discipline or submission of Japanese people are prevalent in academia (Baradel, 2019). Even when this is not the intention, authors face the risk of imposing cultural assumptions in their scholarly literature. Thus, when conducting this research, I must tread carefully and critically to avoid repeating the same mistake.

During the research for this paper, I have learned that cultural attitudes toward mental illness and race demographics are also crucial factors shaping penal systems and necessary in understanding how to implement effective penal policy. In the future, I plan to explore the interaction of race and attitudes toward mental illness in conjunction with political, social, and economic penal determinants.

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