

A first step toward treating offenders like humans

The new criminal justice law is modest. But it may signal a shifting narrative.

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If you want to change the world, says civil rights attorney Bryan Stevenson, you have to change the narrative. For decades, the dominant American narrative on crime has been relentlessly punitive: the assumed way to deal with lawbreakers, even nonviolent ones, is to add police, increase criminal prosecutions, and impose longer and harsher prison sentences.

That “get tough” narrative, often fueled by racist fears, launched the so-called War on Drugs in the late 1970s and led to passage of the 1994 crime bill. Millions of nonviolent drug offenders—a disproportionate number of them young African American males—were swept into prison. Harsh three-strikes laws took away judges’

ability to use discretion when sentencing repeat offenders. As a result, the incarceration rate quintupled between 1972 and 2007, and the United States became the country with the largest prison population in the world.

But the coherence of the “get tough” narrative has begun to crumble. More and more people across the political spectrum have recognized that the resulting policies have been ineffective and inhumane. The most grievous cost is the years inmates have unnecessarily spent behind bars, apart from family and community and away from opportunities to go to school, hold a job, and build a better life. The financial cost of keeping 2 million people in prison has also been an enormous burden on governments.

One sign that the national narrative has begun to shift was the passage by Congress of a bill designed to reduce the prison population rather than expand it. Among other things, the First Step Act signed into law in December gives judges more discretion in sentencing and increases inmates’ opportunities to apply for shortening their sentences. It eases the three-strikes law so that those with three felony convictions get only a mandatory 25 years, not a draconian life sentence. It’s estimated that as a result of the law, thousands of years in jail time will be eliminated.

As the name suggests, First Step is only a start at reforming the system. The National Council of Churches has criticized it for failing to make retroactive the revisions in mandatory sentencing. The NCC also worries that, without further reforms, the law will unleash punitive forms of electronic monitoring on inmates released from jail. The law applies only to federal prisoners—which means only 8 percent of the nation’s prisoners are in a position to benefit. The bulk of criminal justice reform must be done at the state and local levels.

Yet the new law offers hope that the narrative on criminal justice is changing from one based on retribution and punishment toward one that respects people’s humanity. Incarceration is usually a cruel and shortsighted alternative to programs of education, mental health counseling, drug treatment, and affordable housing. What our fellow citizens who break the law most need is not separation from the community but more support for integration into it.

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