

AN ECONOMIC ANALYSIS OF THE PRISON SYSTEM

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Abstract

The article presents a short cost analysis related to the prisoners of Romania in comparison with other countries. The purpose of the article is to present the current situation of the costs and expenditures, the state is taking when imprisoning a delinquent and to draw future lines for the improvement of the prison system and Criminal Code. Data is used from online available governmental sources worldwide and is statistically worked and interpreted. The analysis is corroborated with the laws from the old and new Romanian Criminal Code and conclusions are drawn. The article presents partial results of the author's yet not published work.

Keywords: *costs, prison, delinquent, criminal, analysis*

1. Introduction

Since early times, people were divided into two classes: rich and poor. The antagonism of these classes made possible the emergence of prisons. The existence of these sites was determined by the need to punish those who were violating the rules of conduct established and, therefore, the entire evolutionary process of the prisons, of various prison systems should be viewed as a social and historical phenomenon. In the era of slavery, the main penalties were the body punishments and imprisonment had a very limited scope of application. The prison was considered more a preventive measure and not a punishment, which was provided in the Roman law. As time passed, the prison became a place of torture for those who disobeyed state laws. Thus, deprivation of liberty in the Feudalism Era was characterized by torture and agony, all applied by order of the Inquisition. Prison law aims to establish the imprisonment regime and also the means of using this regime. Under the prison law we should first establish the term "prison treatment", which designates the social reaction against those who commit acts that are contrary to the laws of society. The importance of prison law is that it fights against crime and criminality. Imprisonment applies to all those who have committed violations and are convicted by criminal laws. It should be noted that imprisonment primarily involves harm and secondly - suffering.

William Churchill said: "Show me your prisons and I'll tell you how your society is." These famous words of a British politician capture the fact that the material conditions in any prison system, the achievement and the possibility of developing new perspectives are a kind of representation of cultural and economic development of the whole society, and even of the state. The treatment of prisoners expresses the relationship of the state to the individual and to the rights and civil liberties.

The paper presents a short analysis of the prisons' system in Romania in comparison with selective countries, in order to help the reform of the European prisons, which like in a company should be managed and controlled based on not only social key productivity indexes but also economical ones. The studied problem in this paper can positively influence in my opinion the lawmakers in order to provide better laws in terms of the social and economic impact on the individual (delinquents, as well as innocent people). There are different papers

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in the specialized literature (Sorensen¹, Walters², etc.) regarding the increasingly grade of occupancy in the prisons worldwide and how the prison lost its main purpose, i.e. of reeducating the inmates and became a place from where the delinquents come out worse or remain longer than the initial sentence due to problems which appeared in the prison. All these “delays” due to the problems post-sentence should be looked from the social as well as from the economical point of view. The necessity for my research comes from the main management idea, that if we have a problem, we cannot control it, nor solve it, unless we measure it. Thus there is a need within the juridical and economical state system, of finding out how much does an inmate costs the taxpayers’ money, if we want to regulate and improve this system.

In an Europe where reforms are introduced in all branches of the state apparatus, the prisons’ system should be also included and costs related to the maintenance of the prisons at the highest standards, aimed mainly at the purpose of reeducation, and costs with each delinquent per month should be analyzed and controlled in a strictly manner. The costs influence the quality and finally the result of the reeducation.

2.1. The Romanian prison system

A research was made of the prisons worldwide with a focus on their operational costs. The author tried to find answers to research questions like: How much does an inmate cost the state? What is the occupancy rate in the prisons? and How is this financial problem solved worldwide or is it just a local problem in Romania? Based on these questions, the scientific databases were used as well as the “grey” literature. An analogy is made between a company and a prison and based on this analogy the author uses comparative analysis in order to understand why and how much does an inmate costs the state. The research included juridical, social as well as economic aspects of the problem; however I will further focus on the financial problem of the prison system.

Gruia³ considers that the prison system of a state should be connected and managed accordingly in order for the public policies to be understood at the highest as well as at the lowest level of the administrative system. As a result the level of corruption can be prevented and thus decreased at the administrative level.

In the same time, if we look at ways of increasing the productivity of the “company” called “the prison system”, we can make an analogy with the ideas of Gruia⁴, who considers that the company’s productivity can be managed and improved by fulfilling the tasks Just-In-Time with a focus on the Quality Management System and on the lifecycle of the final products, which in our case are the inmates after they have finished the educational and correctional part of their lives in prisons. In another article, Gruia and Gruia⁵ provide an analysis of state powers in the context of today’s business environment both nationally and internationally, and this can be considered as an important starting point in my research regarding how the state can and must influence the prisons’ system. This considered article is part of a more complex work of the authors on improving social relations that occur in the work of state administration in relation to the Romanian business environment and provide a connection between the business environment and the state apparatus, which can be applied

¹ Sorensen, J., Davis, J.: „Violent criminals locked up: Examining the effect of incarceration on behavioral continuity”, *Journal of Criminal Justice*, [online], vol. 39, no.2, March–April 2011, p.151-158.

² Walters, G.D., Crawford, G.: „In and out of prison: Do importation factors predict all forms of misconduct or just the more serious ones?”, *Journal of Criminal Justice*, [online], vol. 41, no.6, November–December 2013, p.407-413.

³ Gruia, George, *Politici publice*, Ed. Sitech, Craiova, 2014, p.186, ISBN 978-606-11-3764-0.

⁴ Gruia, C., George: „Methodology development for implementation of quality management system within SME from the products’ lifecycle point of view”. *Manager Journal*. [online]. 2012, vol. 15, p. 92-104. ISSN 1453-0503.

⁵ Gruia G. and Gruia, C., George: „The role of state powers in the development of business environment”, *Perspectives of Business Law Journal*, [online], vol.2, no.1, November 2013, ISSN 2286 – 0649, ISSN-L 2286 – 0649.

also in the relations between the prisons and the business environment, when the prisoners do work outside the penitentiary and they receive money as well as the penitentiary (from non-state sources and increase the prison's budget).

In Romania, according to the old Criminal Code⁶, imprisonment can be classified into life imprisonment and imprisonment from 15 days to 30 years - both main punishments. However, according to Article 63 index 1 of the current Criminal Code imprisonment can be applied if the convict avoids voluntarily payment of the fine and the court replaces the sentence with imprisonment for the offense committed within the limits and according to the proportion of fine that has not been paid.

An alternative to life imprisonment is the imprisonment of 15 to 25 years and the prohibition of certain rights. If there are inhumane offenses of treatment in time of war (Article 358, paragraph 4, the current Criminal Code), the only main applicable punishment is life imprisonment.

In the case of plurality of crimes in which one or more prison sentences or a fine have been established, the main penalty shall be life imprisonment.

Under the new Criminal Code⁷, life imprisonment "is the indefinite imprisonment and is executed according to the law on execution of sentences." This penalty applies only for particularly serious crimes such as crimes against persons, crimes against humanity, against life, against morality, against property, against state security, against the national economy, terrorism or crimes against the public interest, etc. and runs under maximum security, prisons specifically designed for special sections of prisons or county. Along with life imprisonment, it is accompanied by additional punishment by banning certain rights for constraining effect is particularly strong.

The new Criminal Code introduced also some changes in the sentences for the same offences. For example, theft and deception which until now were punishable by a maximum of 12 years will be assigned up to three years in prison. Punishment for cheating with serious consequences for those found guilty drops from 20 years to a term between one and five years. Sentences with execution will have alternatives. One of them is suspend of the punishment, under surveillance. Another novelty is the notion of fine-days. It means if a convict receives its punishment, and is not serious nor from the very serious category of offenses, he may pay the bail. Bribery in the old Criminal Code was punishable with imprisonment up to 12 years, while in the new Code it will be the maximum punishment of seven years.

	Prison population total (no. in penal institutions incl. pre-trial detainees)	Date	Estimated national population	Prison population rate (per 100,000 of national population)	Source of prison population total
Central and Eastern Europe					
Belarus	31,700	1/10/12	9.45m	335	NPA
Bulgaria	10,996	10/12	7.3m	151	US State Dep't human rights report
Czech Republic	16,257	30/8/13	10.54m	154	NPA
Hungary	18,388	13/6/13	9.9m	186	NPA
Moldova	6,710*	1/4/13	3.56m*	188	NPA
*Does not include the internationally unrecognised Transdnistria/Transnistria/Pridnestrovie.					
Poland	83,610	31/8/13	38.55m	217	NPA
Romania	33,015	24/9/13	21.25m	155	NPA
Slovakia	10,152	31/8/13	5.42m	187	NPA
Ukraine	137,965	1/9/13	45.21m	305	NPA

Tab. 1 - World Prison Population List per year 2012

Source: http://www.prisonstudies.org/sites/prisonstudies.org/files/resources/downloads/wppl_10.pdf

⁶ Old Criminal Code of Romania, introduced in the year 1969 and modified with the latest version of 2008, was applied until February 1, 2014.

⁷ New Criminal Code is applied and valid from February 1, 2014.

According to the World Prison Population List⁸, the prison population rate per 100 000 of national population is for Romania 155, with a total of prison population of 33 015, in year 2012. However if we compare Romania with smaller countries like Czech Republic we see a difference of 1 in prison population rate, even though the population of Romania is double than the Czech one. On the other hand the prison population rate is higher with 32 for Slovakia than for Romania. If we look on the table above we can calculate that Romania is on 3rd place from 8 countries from Central and Easter Europe regarding the prison population rate per 100 000 of national population.

In year 2013, more exactly until April 2013, the Romanian Ministry of Justice shows that, on 16 April 2013, recorded a total of 33 060 of inmates housed in premises that provide a total capacity of 27 700 seats, according to criteria established by the Minister of Justice no. 433/C/2010 (index of occupancy - 119 %) and 19 738 seats, according to the standards of the European Court of Human Rights (ECHR), resulting in a 167% occupancy index.

My focus is mainly on the financial implications the European states take while imprisoning a delinquent. In this manner, I focused my research on this aspect of the problem. For example, the Vera Institute of Justice developed a report for American prisons showing how much incarceration costs taxpayers money. According to this report⁹, “Vera determined that prison costs outside the corrections budget fall under three categories:

1. Costs that are centralized for administrative purposes, such as employee benefits and capital costs;
2. Inmate services funded through other agencies, such as education and training programs;
3. The costs of underfunded pension and retiree health care plan”.

Their findings were that the actual costs of incarceration are usually higher than the budget corrections. Of course, we cannot compare the European prison system with the American one in terms of legislation, but in terms of costs, the costs per inmate contain the same categories everywhere in the world.

Another conclusion of the Vera report was that “putting more lower-risk offender in prison is yielding increasingly smaller improvements in public safety and may cost more to taxpayers than the value of the crime it prevents....it is essential to assess the benefits and costs of incarceration.”¹⁰

I interpret the findings of Vera Institute of Justice that there is a need of a reform in terms of cost savings in direct relationship with the prisons’ productivity in educating the inmates and a cost – benefit analysis of this situation based on the type of offences committed by the inmates.

In Romania, according to the Ministry of Justice, the monthly cost of an inmate, for the year 2013, in a prison is 2 397 RON (approx. €533), where the most part of the money 1 619 RON (approx. €360), represent the expenses with the personnel. If we look more careful at these costs we find out that the average cost for care with one convicted fellow is 417 RON (approx. €92) per month and 77 RON (approx. €17) for medical and social insurance. In total, the state is spending with each prisoner per month an average of €109. But there is an extra of €64 for costs with different activities related to the imprisonment program for each of the inmate, according to the nature of their sentence.

⁸ Walmsley, Roy: World Prison Population List, 10th edition, International Centre for Prison Studies, available online at http://www.prisonstudies.org/sites/prisonstudies.org/files/resources/downloads/wppl_10.pdf

⁹ Christian Henrichson and Ruth Delaney, The Price of Prisons: What Incarceration Costs Taxpayers. New York: Vera Institute of Justice, 2012. available online at http://www.vera.org/sites/default/files/resources/downloads/Price_of_Prisons_updated_version_072512.pdf

¹⁰ Idem 6.

2.2. The American and European prison system: short comparison

The United States of America are the cradle of the modern democracy and accordingly I have considered as relevant to the theme of this article the history of the American prison system. Accordingly I will further present a part of this history, which I consider the most relevant one.

There are well known the Salem witch trials from 1692, which took place in the Salem Village (now Danvers, but then the rural part of Salem, Massachusetts) and spread through 22 other communities in three counties. As the author of the book “Six Women of Salem” relates, there were some struggling times when these trials appeared due to the witchcraft panic from those areas. I will further relate a part of the author’s ideas, which were part of the research made in her book.

The region was already beset by frontier raids from French Canada, privateer attacks on coastal shipping and fishing, a struggling economy hampered by war, political uncertainty due to England’s nullification of the Massachusetts Charter, and the threat of deadly untreatable illness from smallpox outbreaks. Also the local quarrels of Salem Village’s wanted to split from Salem and the Salem Village congregation was in disagreement over the choice of minister. Then the minister’s daughter and niece developed an unexplained illness, which was first treated with home remedies and prayer and eventually diagnosed by a medical doctor: the girls were “under an evil hand.” Once the girls’ symptoms appeared to be the result of bewitchment, neighborhood speculation dredged up long-simmering suspicions and old grudges as suggestions led to names and accusations.

Among the first three suspects arrested and questioned was the minister’s slave, Tituba, who, bullied into confession, described a conspiracy of witches working against the already beleaguered community. The number of accused and the number of supposedly afflicted victims increased as the panic spread throughout Salem and adjacent towns.

Local magistrates conducted the preliminary hearings, and most of the surviving dialogue comes from notes from those hearings. To relieve the crowded jails, Massachusetts (once the new charter arrived) established a special temporary Court of Oyer and Terminer, and in the summer of 1692, thirty defendants faced a grand jury in Salem and proceeded to jury trials. All of these suspects were found guilty and sentenced to death.

From June to September 1692, nineteen people were hanged in four batches—yet the number of suspects and afflicted only grew. And more people were considered to be afflicted than testified in court.

Finally, the sheer quantity of suspects and the growing opposition suspended the trials in October 1692. After heads cooled, and the court—now the Superior Court—rejected spectral evidence, the trials resumed and found only three guilty, none of whom would hang.

In 1697, Massachusetts apologized with a public fast, and in 1711 it reversed the attainder on those found guilty who had been named in the various petitions, and then made *monetary restitution* to survivors or their families. In 2001, Massachusetts cleared five more not named in the 1711 act, leaving only Elizabeth Johnson Jr.’s name unprotected.

Even though this was a terrible act, what is interesting for my article is the fact that in the 17th century, the convicted were obliged to pay their prison costs.

Today, in Europe, in the 21st century, convicted criminals in Netherlands might start paying 16 euro per day for accommodation as the Dutch Ministry of Security and Justice wants to introduce a bill aimed at reducing state jail costs. “Convicted criminals have broken the law and received a penalty. Offenders are being asked to make a contribution... because of high costs,” the ministry said.

Under the proposal, the convicts may have to pay 16 euros per day for a maximum of two years for time spent behind bars. Parents of under-aged prisoners “would also be liable for the charge. The convicted would be given six weeks to pay”, adds the statement.

If the bill is approved by the Netherlands' two houses of parliament, it would become law by the end of the year. A separate bill has been introduced by the State Secretary for Security and Justice, Fred Teeven, proposing that prisoners also "contribute to the costs of the investigation that led to their conviction."

However the requested sum of money will not cover entirely the costs per day with one prisoner. Prison time costs the Dutch government around €250 per day per prisoner, according to news agency France-Press. With this new bill the Dutch cabinet hopes to save €65 million a year from the cost of detention.

I see two major directions for reducing the costs of the incarceration:

- a) To implement laws like in Holland or in medieval times of USA, in order for the inmates to support some costs regarding their detention; OR
- b) To reduce the costs with the imprisonments, this can be translated as reducing the costs with the personnel or reducing the time period spent by the inmates in the cells.

This latter solution is taken in some of the European countries, like Romania, where by introduction of the new Criminal Code, some sentences were reduced considerably for the same offence. However a better analysis is necessary in my opinion in order to see if this solution is the right one and not maybe the first direction should be a better one. But this only time will tell or an analysis in comparison between the Dutch juridical system and the Romanian will also be helpful. This is in my opinion a future line in my research and with this article I want to introduce the reader into the problematic matter of prison management and its control in terms of financial, juridical and social points of view.

3. Conclusions

The article showed an analysis of the costs of incarceration the state has to pay for their inmates. These costs were taken from governmental available sources online with the purpose of showing how the prison system is worldwide in terms of costs, and the goal of helping the European prison system in developing better rules and methodologies of applying these laws during the incarceration. In America the prison system is divided in private and state owned, while in Holland the lawmakers are developing a law, which will force the inmates to support part of their incarceration and conviction costs. Also the newly introduced Romanian Criminal Code gives fewer years for several offences, than before, which can be considered as a way of decreasing the costs related with the incarceration of an inmate for not so serious offences.

The theme of my article cannot be fully presented in order to comply with the guidelines for the authors regarding the length of the article. Thus the author here presents only partial results of the initial research regarding different financial aspects of the Romanian prison system and hopes that a discussion with the academic forum will help in improving the European legislation and methodology of operation of the prisons in Romania and Europe.

Future research can be focused on social and educational aspect of the delinquents with the goal of preventing crimes before happening, with a focus on cost – benefit analysis. The economic analysis can be extended to the whole European area and centralized laws, and directives can be implemented in each country in order to reduce the number of inmates, in time, and if their number cannot be reduced, at least the costs with their incarceration to be minimized and held under control.

References

- Christian, H. and Ruth, D.: "The Price of Prisons: What Incarceration Costs Taxpayers". New York: Vera Institute of Justice, 2012. available online at http://www.vera.org/sites/default/files/resources/downloads/Price_of_Prisons_updated_version_072512.pdf
- Gruia, George, *Politici publice*, Ed. Sitech, Craiova, 2014, p.186, ISBN 978-606-11-3764-0.

- Gruia, C., George: „Methodology development for implementation of quality management system within SME from the products' lifecycle point of view". Manager Journal. [online]. 2012, vol. 15, p. 92-104. ISSN 1453-0503.
- Gruia G. and Gruia, C., George: „The role of state powers in the development of business environment", Perspectives of Business Law Journal, [online], vol.2, no.1, November 2013, ISSN 2286 – 0649, ISSN–L 2286 – 0649.
- Marilynne K. Roach: Six Women of Salem: The Untold Story of the Accused and Their Accusers in the Salem Witch Trials, 472 p., Da Capo Press, ISBN: 978-0306821202.
- News agency France-Presse, www.afp.com.
- Old and New Romanian Criminal Code.
- Romanian Ministry of Justice, Press News, www.just.ro.
- Sorensen, J. and Davis, J.: “Violent criminals locked up: Examining the effect of incarceration on behavioral continuity”, Journal of Criminal Justice, [online], vol. 39, no.2, March–April 2011, p.151-158.
- Walters, G.D. and Crawford, G.: “In and out of prison: Do importation factors predict all forms of misconduct or just the more serious ones?”, Journal of Criminal Justice, [online], vol. 41, no.6, November–December 2013, p.407-413.
- Walmsley, Roy: "World Prison Population List", 10th edition, International Centre for Prison Studies, available online at http://www.prisonstudies.org/sites/prisonstudies.org/files/resources/downloads/wppl_10.pdf