The criminal system in Jamaica and investments of public financial institutions in times of COVID-19
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Text by: Maria Carla Gullotta; Gustavo Zullo; Alexandre Andrade Sampaio
Revision: Jocelyn Medallo; Ana Letícia Martins Luz
Design by: Ana Letícia Martins Luz

The citations on the backcover of this report were freely transcribed and extracted from the documentary Songs Of Redemption, available at: https://www.youtube.com/watch?v=spzyH4QGk
Part 1

INTRODUCTION

This brief will look at current investments by Development Finance Institutions (DFIs) being made, proposed or approved for Jamaica in times of COVID-19 and their relationship (or lack thereof) with major criminal system concerns in the country from the standpoint of Stand Up For Jamaica (SUFJ). SUFJ is a non-governmental organization, operating since 2002, whose primary mandate is to advocate for the prevention of discrimination and defence of people in vulnerable situations in Jamaican society, such as inmates, the mentally ill, women, children in the care of the state, the LGBT community and people with disabilities.

This analysis focuses specifically on Jamaica’s justice and prison system and the most pertinent problems faced by inmates, according to SUFJ. The social situation in Jamaica, allied to very strict laws, lead not only to the maintenance of a large incarcerated population but it does not fully address the needs of inmates and prison staff, what has become an even more problematic issue during the pandemic, as will be presented in the next step of this analysis. This inadequacy couple with the precariousness of the buildings, lack of adequate resources and human rights-led staff training in prisons are among the most common and deepest problems.
Methodology

This analysis uses data from the Early Warning System (EWS), co-created and co-administered by International Accountability Project (IAP). In the Latin American and Caribbean region the EWS is also administered by the Interamerican Association for Environmental Defense (AIDA), Cohesión Comunitaria e Innovación Social (CCIS), Fundación para el Desarrollo de Políticas Sustentables (FUNDEPS), Instituto Maira, Sustentarse and the Network of Communities Impacted by IFIs. The EWS currently tracks 15 DFIs in order to inform those in vulnerable situations and NGOs that work with them about projects and plans coming region, in an attempt to avoid human and environmental rights violations while prioritizing communities’ demands and goals. Our objective is straightforward: to assess the information made available online for potentially affected communities to access, and to share our assessment with DFIs and other stakeholders in the spirit of contributing to a more robust and people-centered practice.

The projects analysed further below were tracked by the EWS from the 1st of January 2020 until the 31 of December 2020. More specifically, this analysis provides background on the criminal justice system in Jamaica and then discusses three COVID-19 projects and their potential impacts on the system.
Part 2

A BRIEF ANALYSIS OF THE CRIMINAL SYSTEM IN JAMAICA

“How, I wondered, could anyone be expected to emerge from this hell hole and be expected to rejoin society? Individuals enter the system because they are unable to conform to the norms of society. And they leave less able to do so.”

Glenn Tucker, educator, sociologist and former probation officer in Jamaica.

Jamaica not only has a high criminality rate, but it also has a criminal system that does not necessarily prioritize the best interests of the youth, mentally ill and other vulnerable inmates. Limited support is provided for the rehabilitation of inmates and their reintegration into society. Notably, Jamaica’s recidivism rate is high, 42.5% in 2017. There have been numerous reports of the violation of inmates’ rights in Jamaican prisons. The country’s prison system is a clear example where the concept of punishment seems to be endorsed as the managing inmates. In the words of Gullotta, Executive Director of Stand Up for Jamaica:

“The concept of rehabilitation appears to be lost on us collectively. While progress has been made to improve the treatment of prisoners, the orientation of our system and the mindset of the security apparatus continue to be focused on punishment rather than creating meaningful change in the life of inmates so that they are less prone to reoffend when they are released from prison.”

In the Correctional Centers institutions there are around 4,700 inmates – males, females and juveniles - a population which constantly faces institutional violence. When the criminal system focuses on an approach that seeks only punishment and retribution, it hinders rehabilitation, fosters the traumatization of inmates and augments the possibilities of inmate violence in and outside the system, which threatens these inmates’ families, communities and society in general. If adequate resources and measures were devoted to support rehabilitation programmes and to assist detainees to reintegrate into society, this would reduce recidivism, contributing to a significant reduction in crime – within and outside the prison system.
A sharp indication of the failure of the current system is deduced from the fact that Survey of Individuals Deprived of Liberty: Caribbean 2016–2019, a study published by the IDB in October 2020, found that the reoffending rate in Jamaica was 42.5% in 2017, while reoffending seldomly happens to those who received the opportunity to be part of a rehabilitation program. Of inmates surveyed in the report, the majority (69.1%) did not participate in any classes or go to school while serving time.

Adding to the abovementioned factors that indicate the State’s lack of proper care in relation to the conditions that cause re-offense, many others contribute to that outcome.

Overcrowding is one of these factors. There are cases of institutions holding more than twice their capacity of inmates. According to the Report on the situation of Human Rights in Jamaica (p. 63), the St. Catherine Adult Correctional Center counted 1,240 inmates in a prison built for only 850. Although the report was published in August 2012, the situation seems to continue. This is a situation that not only is associated with poor sanitary conditions, which precedes the COVID-19 pandemic, but it also means that inmates “under arrest are locked up with persons in remand” (idem).

The infrastructure for some correctional institutions are mainly old slave trade posts built to receive slaves from Africa in times of slavery and colonization, which does little to promote rehabilitation. In July 2020, the Government of Jamaica announced plans to construct a prison to replace the Tower Street Correctional Facility, however no concrete information or timeline has been provided for completion of this project.
In addition, it is important to note that the wages for correctional officers and support staff are not rewarding. Correctional officers do not enjoy the same benefits as police officers do, and their training is not only poor but it is mainly focused on security. The lack of affordable remuneration has also hindered efforts to attract and retain long term psychologists on staff.

Rehabilitation programs have been encountering implementation difficulties for several years. Lack of infrastructure and support from the institutions is dramatic. All activities are under constraints due to a reduced time table, shortage of staff and lack of funds, which has worsened since the advent of COVID-19. All institutions have schools from remedial level to Caribbean Secondary Educational Certificate (CSEC) but the Department of Correctional Services (DCS) is not able to provide stationery, text books, teachers, etc. Most of the time there is no space to accept those who wish to subscribe to classes, training and other rehabilitation sessions.

Another clear shortcoming that stems out of Jamaica’s criminal system pertains to the mentally ill. Approximately 300 mentally ill inmates are housed at Jamaica’s correctional facilities. The DCS is not sufficiently equipped with the medical and staff resources to provide adequate mental health care. Additionally, in 2020 it was reported that almost half of the mentally ill inmates were in prison for years without a trial, as much as 40 years, after being deemed unfit to plead and detained at the Court’s or Governor General’s pleasure. In 2020, INDECOM
reported that of the 146 mentally ill inmates that have been detained at the Governor General’s/Court’s Pleasure/Unfit to Plead - Awaiting Trial at two correctional centres, at least 15 persons have been incarcerated for over 30 years. This is the sad reality for those who lack the resources from families. Following INDECOM’s report, the Chief Justice of the Supreme Court of Jamaica released a report in which he attributed the situation in part to only one mental health facility designated under legislation and that judges are only authorised by law to order mentally ill charged with criminal offences to be remanded at a designated mental health facility. To date only one facility - Bellevue Hospital - has been designated.

Juveniles whose parents prove to the Court that they are unable to control them, are sent to juvenile correctional facilities if the Court deems it necessary. In the terminology of the country’s Child Care and Protection Act of 2004, they are detained as uncontrollable. Most of them have been traumatized by abuses or lack of parenting, acquiring aggressive and rebellious behaviour, such as not going to school, not coming back home at night and others more severe that deepen family problems. So, instead of receiving help they are taken to the police by their families and then, they are sent to court, where they can be sentenced up to the age of eighteen. Such provision, under the Child Care and Protection Act, which was supposed to be amended 5 years ago, but it is still standing, leads to one of the most difficult social situations in Jamaica. Incarcerated minors’ rearing process is affected by the fact that their ability to learn about daily life and to access the tools and the experience needed to become an adult are limited.

Many inmates are not habitual delinquents. There should be space to address this diversity of incarcerated people in order to deal with each individual on a case by case basis, and not in a herd process, that only adds to the problems already mentioned above. Taking into consideration this context, decisive steps should be taken in order to address the consequences that the shortcomings of the criminal system poses for Jamaica as a whole.

A policy and practice of social inclusion and attention to those most vulnerable - such as the youth and the mentally ill - should be sought, preventing confrontation and incarceration while fostering the rearing of citizenship.

The Ministry of Security and DCS should engage in legislative reform in order to introduce a more modern approach to crime prevention and addressment, which goes hand in hand with strong educational rehabilitation programs, developed in partnership not only with civil society, but also hearing the voices of inmates and their families who have experienced the failures of the criminal justice system.

Violation of inmates’ rights should come to a full stop and proper funding should be allocated to pursuing such outcome, with:
|Social policies and programmes should support the reintegration of inmates into society including facilitating employment opportunities in the public and private sector;|amend the Child Care Protection Act to remove the court’s discretion to deem children uncontrollable and remand them into correctional facilities;|
|the construction of new correctional facilities coupled with refurbishing and upgrading the sanitary conditions of existing facilities;|improve social welfare support to enable parents and guardians to provide for the educational, and health needs of minors;|
|the reduction of overcrowding by diverting low risk inmates including mentally ill detained at the Court’s/Governor General’s pleasure, and detained juveniles declared “uncontrollable” from the prisons;|Social policies and programmes should support the reintegration of inmates into society including facilitating employment opportunities in the public and private sector;|
|improved training programmes, including on human rights, and greater remuneration and other incentives for Correctional Officers and medical staff;|Such programmes should also promote campaigns to address the stigma and institutional impediments that hinder acceptance in society for ex-inmates, including for those who have attained secondary school degrees, professional diplomas and skills training;|
|sufficient funding to all aspects of rehabilitation programs, including the provision of adequate stationary, teachers and textbooks and support for skills training programmes;|Develop and institutionalise participatory mechanisms that incorporate inmates (including their representatives) and civil society in the decision-making process for actions to reform the criminal justice system through the use of Memoranda of Understanding to support and coordinate the implementation of joint action, projects and programmes in prisons.|
Part 3
THE ADEQUACY OF CURRENT PROJECTS TO DEAL WITH ISSUES OF THE CRIMINAL SYSTEM IN JAMAICA

From January to December 2020, the Early Warning System tracked 18 projects proposed for financing in Jamaica, among which only one of those, Strengthening Social Violence Prevention Initiatives in the Caribbean, could be considered to have a more direct relationship with Jamaica’s criminal system and two others relate more deeply to the precarious social conditions that feed and reproduce crime and violence sociability. These projects merit a closer look so as to analyse their adequacy (or lack thereof) in addressing the issues brought to light above.

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<th>PROJECT NAME</th>
<th>BORROWER / CLIENT</th>
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<th>BANK’S INVESTMENTS (MILLION USD)</th>
<th>PROJECT COST (MILLION USD)</th>
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(Projects in Jamaica from January to December 2020, according to the Early Warning System)
The 2020 IDB project, *Strengthening Social Violence Prevention Initiatives in the Caribbean*, aims to "reduce violent crime through cutting-edge research as well as management and monitoring tools". Although, at the time of writing, the project provides little to null information about (i) the indexes used to measure the achievement of the project objectives, (ii) what is understood as violence prevention and (iii) which are its tools, it is to be commended for embracing such an important issue. In the midst of the COVID-19 pandemic, Jamaica has maintained its high homicide rate, the region’s highest at 46.5 per 100,000 people (1,323 murders) with only a marginal decrease coming from 1,339 murders in 2019.

Since tourism decreased sharply after the government decreed a lockdown, in April 2020, many have lost their jobs and national income and wages decreased severely, as has happened all over the world. Several dependent and linked economic sectors were also negatively impacted by the decline in tourism. This situation has certainly led to the worsening of an already strained social fabric, which raises present and future concerns for the country, in particular its most vulnerable such as the poor and the youth.

In that regard, the project should be commended for concentrating its efforts on youth in situations of vulnerability, a section of society that has traditionally been the most affected by *domestic violence* and many other kinds of abuses, which brings several harmful consequences for their mental health and other psychosocial problems. The *IDB Technical Cooperation Project Document* mentions increasing research on such problems as a way to create channels that could provide more work opportunities and more safety nets for Jamaican communities, families and individuals.

But the creation of work opportunities, on the one hand, and the creation of a social safety net, on the other, must be well oriented to actually create better perspectives for adults and for the youth. In other words, it would be extremely important to create a communal environment that cherishes people and not one that leads parents and society in general to consider young rebels as uncontrollable ones. It is extremely important to keep children away from the labor market and from any other activity that may violate human rights as much as it is important to keep communities’ sovereignty. If the program leads young people into precarious work situations or forces communities to join the market beyond their needs, the program may even worsen crime and other kinds of violence associated with poverty. In addition, some studies indicate that the culture of crime takes years to be satisfactorily overcome by communities affected by high levels of violence, which reinforces the need for such communities and trusted local organizations to build or at least participate in the building of a long term plan to overcome such social conditions.
The project also mentions that it relies on a scientific methodology internationally acknowledged - the program Cure Violence (CV) - which the project documents mention as being successfully implemented in some cities of the United States of America. The Cure Violence approach aims to stop the spread of violence by using trained outreach workers to create strategic partnerships with communities and 1) detect and interrupt conflicts by engaging and mediating conflicts 2) identify and treat the highest risk individuals by providing counseling and facilitating access to social services such as job training and drug treatment, and 3) mobilize the community to change norms by engaging community leaders and other stakeholders.

However, one should recognize that these realities are very different from the realities in Jamaica and Trinidad and Tobago. Furthermore, local organizations and communities would be more recommended to develop and manage social programs than private companies, especially if such a company is not even acquainted with problems for which it was hired. The engagement of local expertise, such as those that come from communities and partner NGOs, has a higher probability to achieve better results. Communities affected by projects financed by DFIs and other kinds of determinations from the outside must have an active voice to decide their own destiny.

Another point of concern regards the lack of attention to women’s care. Although they do not participate in gangs as often as young adult men, they also require a comprehensive social protection network that is more attentive to their particular problems, such as sexual abuse. The adolescent’s fertility rate (women aged 15-19) in Jamaica is 50 births per 1,000. This should be a goal of every public health project, as this kind of abuse amplifies social problems and decisively contributes to its reproduction. Public authorities should mobilize themselves to build policies that empower young and adult women.
The second project that pertains to our analysis is called Support for the Health Systems Strengthening for the Prevention and Care Management of Non-Communicable Diseases Programme II. The reason for concern in relation to this project is the lack of attention to inmates’ and prison officials’ health situation. In fact the project does not mention them. Although the project must be commended for establishing a series of efforts to reduce risk factors related to non-communicable diseases (NCDs), including some adaptation related to the coronavirus pandemic, there is still a lot to do if comprehensive measures are to be implemented to ensure efficiently the health of the whole society. Appropriate health and medical care, along with sanitary conditions must be provided to all, without any exceptions. Otherwise, policymakers will be failing to accomplish their duty.

Although public authorities are responsive to some of the demands from NGOs, such as COVID-19 testing for inmates and correctional officers, the percentage of tested incarcerated population and prison staff is low. According to the official DCS’s website, visited on April 6th 2021, from all 4,580 inmates and 2,500 correctional officers, only 880 and 489, respectively, were tested. This is insufficient to create a secure environment inside prisons. It would be necessary to periodically test all people that work or are incarcerated to control the spread of the disease inside and outside prisons and, of course, to treat all inmates and officials who have contracted the virus. The current situation requires that the sanitary security protocols published by World Health Organization must be fully respected in prisons, which requires an adequate number of masks and other essential materials to ensure healthy conditions in Jamaican prisons. In addition, prison officers should be prepared to properly meet these and other needs required to create and keep a safe environment in the Jamaican prison system during and after the pandemic has passed.

It is striking that the Loan Proposal for the project does not have a single word that refers to the health care of inmates and correctional officers. The omission of such groups is unfortunate and a missed opportunity given that, the same project document recognizes that interpersonal violence is, alongside NCDs, one of the three main public health problems in Jamaica, and that the high rate of violence is detrimental to Jamaica’s economic growth.

Although many aspects of the project must be celebrated, including providing support for the development and promotion of a National Strategic Plan on Mental Health, support for the health care and sanitary needs of this vulnerable group should have been specifically incorporated in the project.
Building better facilities that provide a dignifying environment for inmates and officers could help with these issues. Prisons inherited from slavery times should be replaced by more modern locations where all sanitary measures and all others related to health and safety can be implemented. Overcrowded and inadequate prisons usually lead to rebellion and other problems that are opposite to preparing inmates to live harmoniously in society when they leave prison. In spite of some existing rehabilitation programs, it is common knowledge that living in prison may cause severe and permanent psychological damage, which is often associated with the recurrence of detainees, who often return to prisons shortly after having served the sentences that had initially led them to prison.

Mental conditions, such as depression and anxiety, are also considered to be NCDs and can also contribute to substance abuse resulting in additional health complications. Therefore, it is urgent to provide proper care for the inmates’ and officers’ mental health. In this sense, any National Strategic Plan on Mental Health to be developed should introduce programmes that assist in preventing and treating NCDs such as depression and other serious mental conditions in prisons. Society as a whole would also benefit from such psychological treatments that allow prisoners to reflect on family and other social problems that led them to commit crimes and antisocial attitudes. Additionally, national campaigns and educational programs related to psychological and mental health care for youth could result in social change and alter the perception that some young people are uncontrollable.

A last issue that seems problematic is that the project mentioned above is conditioned by the achievement of macroeconomic goals. In general, these goals impose difficulties for the full functioning of social programs, such as the basic social assistance (see project component 1 and Policy Letter). Especially at a time of pandemic, when economic growth and government revenues around the world fall dramatically, the interpretation that social spending is a cost, not a social investment that would collaborate to guarantee the future of humanity, can harshly damage the implementation of the program. This problem may decrease not only the coverage of some of the targeted social groups, but also means that marginalized groups, such as the prison population, will not be benefitted in the next few years.

World Bank: Jamaica First Economic Resilience DPL

Finally, the third Project that should be highlighted is the Jamaica First Economic Resilience DPL. The documents of the World Bank show that the project has a large scope. In spite of its focus on macroeconomic and natural disasters, the document also includes the promotion of social inclusion as an important goal, which is significantly related to the overcoming of social vulnerability as stated above.
One of the goals of the project is to enhance the capacity of the poor and vulnerable in the face of natural disasters. If the project is properly implemented, there would likely be a much lower negative effect on the performance of many children and adolescents from vulnerable communities, which may be affected by natural disasters such as the destruction of school’s facilities and limited transportation. In more dramatic cases, destruction of crops and other economic activities led by hurricanes and other natural disasters may lead to an increase in the school dropout rate and, even worse, may pressure entire families to move to urban centers where they will not find the community bonds on which they used to support their lives. In all these situations and in many others in which vulnerable communities are immensely harmed, social relations at various levels that previously coexisted in relative harmony go through a fraying process that is very difficult to reverse. A complex set of situations not only causes violent attitudes to arise more frequently, but also may lead young people to engage in what is considered criminal activities.

The World Bank’s document, however, assumes something that seems contradictory to the goals of the project itself. The document mentions that the granting of financial resources to communities depends on the reduction of public expenses, it is important to highlight that this model of financing vulnerable communities is extremely precarious. The granting of fiscal resources to communities should be based on a more stable source in order to guarantee at all times a decent living of all people in the country. Furthermore, this seems to suggest that social spending is understood as costs and not as priority investments, as a government concerned with its population is supposed to do. Providing greater and long term resources is not only a solution that gives more dignity to communities, but it is also an effective way to stabilize and strengthen the local economy in a longer period. These resources could be key to also provide a stable environment for those living in rural areas, avoiding social imbalances, such as migrations that destabilize the labor market in urban centers and, which could lead to poverty and urban violence, especially in the COVID-19 context.
Part 4

FINAl CONSIDERATIONS

Most of the projects tracked by the Early Warning System from January 2020 to December 2020 were not related to the improvement of social conditions and none of them are concerned with the prison system, evidence that public authorities and DFIs are focusing little energy to fight against high violence indicators and its reproduction. Moreover, the absence of projects that pertain to problems exacerbated or created within the context of the COVID-19 is problematic. Given that the pandemic led to a sharp decrease in tourism in Jamaica, on which the country’s economy depends, a large number of social problems were exacerbated. The authorities and the DFIs should look more closely at social issues that urge qualified public services and corporate accountability to be overcome. Since the Jamaican people are facing old problems with greater intensity and new ones that have proved to be very challenging, the current situation urges an efficient and prompt response.

Our analysis identifies a long list of social problems that are still to be properly attended. The situation in prisons is deplorable. Not only the buildings and facilities of the prison system require substantial improvement in order for inmates and officers to share a space that allows them to develop a higher standard of living and working, but it is also urgent to adapt prisons to the sanitary conditions of the pandemic. This moment urges to accelerate officers training and the acquisition of materials, such as masks for all detainees and staff, to guarantee the safety in Jamaican prisons.

Another aspect of inmates and officers' health and social conditions that should be immediately tackled is their mental health. It is of extreme importance to develop a rehabilitation policy that actually enables inmates to reintegrate into their communities and find sustainable work after leaving prison. But this plan must also address two other stakeholders so that the results are satisfactory. Firstly, correctional officers must go through human rights trainings that enable them to understand the complexity of inmates' conditions and, thus, to develop a healthy relationship with them in order to support their rehabilitation. In addition, inmates' families must receive psychological attendance in order to better auxiliate ex-inmates in their adaptation to life after leaving prison. It would be extremely important to create a social safety net that would likely reduce crime and violence indexes.

All over the country there are different kinds of communities going through extremely vulnerable conditions that would welcome any social care that embraces these needs we have mentioned. Scarcity of work, especially those that offers decent wages, and difficulties arising from natural disasters are some of the examples provided so far that frequently keeps generations in poverty and violent environments that lead many to crime and, thus, to prison. In other words, communities would embrace any assistance that acknowledges the complexity of their many realities, which goes far beyond prison boundaries.
Current safety nets must be strengthened by policies that enable them to provide support to a wide range of needs that, in spite of their heterogeneity, share common elements that deserve special attention. An efficient safety net in Jamaica must cover, among other things, sexual education in order to prevent sexual abuses, especially assaults committed by adult men on girls. Another issue that must be addressed by Jamaican authorities is the economic conditions of parents, who very often are not able to provide a proper environment that would stimulate their children to value school and keep them away from the burden of undertaking child labour to provide for their families. These and other problems lead juveniles to adopt an aggressive behaviour inside and outside their families and it would be extremely important to develop a strong and wide social care system that guides families through all these misfortunes.

It would be highly recommended to direct a much larger portion of public finance to increase the budgets of social programs and increase the offering of academic education and skills training opportunities and psychological assistance needed by inmates and other groups in vulnerable situations all over the country. The increase of such programs and the strengthening of others that ensure good social safety nets, such as providing sexual education and family guidance, should be immediately planned and executed by the government. Only by these means can social problems be alleviated and thus prevent the increase of mass imprisonment in the short and long term.

In sum, despite the continuing efforts made by the Jamaican government, we understand that social and health care inside and outside prisons still have room for improvement and DFIs should be mindful of that and play their part. A specialist exploring alternatives recently said about prisons in Jamaica: “Prison is a terrible, toxic torture chamber. No one should be put there unless there is no alternative.” Civil society, local communities and inmates themselves have much to contribute to change that scenario. Their participation in the conceptualization, development and implementation of social policies is actually essential for these to be successful. Other relevant stakeholders should also be involved in these conversations, such as the Inter-American Commission on Human Rights, which dedicated paragraphs 45 to 48 of Resolution 1/2020 to the topic of persons deprived of liberty during the COVID-19 pandemic. Otherwise, public policies and projects financed by DFIs may continue to fail to effectively address these major social problems affecting the criminal and prison system.
The 'livity' of prison is so hard to bare, sometimes it seems as if no one cares. There are pent up feelings I would live to share. I'm asking for a listening. Yeah, yeah, hear - Pity More, Prison No Easy - I see a mother in need a skirt, a father in need a shirt, six kids and mother and six of them sleeping at the dirt. I ask them "where do you live?" and someone tell me down the hood. Pierce my heart to see things getting worst and what they've been going through. Things that they going through. Oh Jah you know too - Hallelujah, Serrano Walker - Sons of His Nation, sing these songs of redemption. Songs of redemption, it made me feel fine, so never you forget the punchline, Lord - Pity More, Songs of Redemption - Prisioners come to prison as punishment, not for punishment. Nobody's born a criminal, but society, a way of life and company causes people to get into crime. And they can change - Leroy Fairweather, Superintendent GP