How politics have played a big role in the release of prisoners

June 16 2020, by Katherine Bruce-Lockhart

Throughout the course of history, it's usually been politics — not compassion — that's resulted in prison releases of the type we've seen during COVID-19. Credit: Piqsels

As governments around the world responded to the COVID-19 pandemic, they released prisoners in large numbers. The scale and scope of these releases are unprecedented, but this phenomenon is not new.

The early release of prisoners is usually due to clemency measures, legal instruments that reduce or revoke punishments. Nearly all societies

throughout history have had some form of clemency—commonly called "mercy"—in their justice systems. Pardons or amnesties, which have different meanings in different contexts, are examples of clemency measures that can result in early release.

Typically, those in executive positions have the power to grant clemency. In England, for example, the Royal Prerogative of Mercy originated in the medieval period and was based on the idea that the sovereign had the power to take away or spare a life.

By the 19th century, the use of the death penalty had decreased significantly and clemency measures focused more on incarceration. This became an increasingly global phenomenon as prisons and western legal systems were forcibly spread through colonialism.

Clemency in Canada

Canada, for example, still has the Royal Prerogative of Mercy. It is rarely used and typically benefits individuals rather than groups.

In the past year, there have been calls for the mass release of non-violent Indigenous offenders in Canada. This has continued during COVID-19.

These calls are tied to wider efforts to reduce the over-representation of Indigenous people in Canada's prisons—a situation deeply tied to settler colonialism. If such releases occur, they would represent a major departure from past policy.

Mass releases throughout history

Prisoner releases have become a regular but selectively used feature of legal systems worldwide. Historical examples demonstrate the range of

motivations for these releases but also reveal some persistent patterns.

Pandemics have prompted releases in the past. During the cholera pandemic in the 1830s, 75 prisoners from Wakefield Prison in England were released to relieve overcrowding and slow the spread of the disease.

In Boston, naval officials offered prisoners pardons if they agreed to undergo medical experiments during the 1918 influenza pandemic—one of many unethical prison experiments throughout history. In most cases, prisoners have been forced to remain in custody, with disastrous results.

Many releases have been tied to significant events. To celebrate the Allied victory in the Second World War, Josef Stalin released more than 600,000 prisoners from the Gulag. In the past few decades, Cuba has freed thousands of prisoners in connection with visits from the Pope.

Releases have also occurred on annual occasions, such as Bastille Day in France, New Year's celebrations in Myanmar and Independence Day celebrations in Kenya.

Governments often release prisoners during moments of tension or transition. In 1919, King George V declared a royal amnesty for political prisoners in India to encourage them to work with rather than resist the colonial state.

Upon taking power in Uganda through a coup in 1971, Idi Amin released political prisoners incarcerated by the previous government. When South Africa dismantled apartheid rule in the early 1990s, many political prisoners—including Nelson Mandela—were released.

While governments celebrate these releases as signs of their humanity, these acts typically benefit a narrow range of prisoners.

In 1945, political prisoners like [Aleksandr Solzhenitsyn](#) [remained in the Gulag](#). When Amin freed political prisoners in 1971, [his government was newly detaining many Ugandans](#). In South Africa, [many prisoners not categorized as political remained behind bars at the end of apartheid](#). They protested their continued imprisonment, arguing that their [crimes were due to the structural violence of apartheid](#).

Past, present and future

What can we learn from this history?

First, it reminds us that the release of prisoners is nothing new. Clemency is a longstanding feature of legal systems that has served many purposes.

Second, releases are generally motivated by political rather than compassionate concerns. Governments often release prisoners when it's beneficial to them or when they face pressure from activist organizations and the public. By controlling releases, leaders can try to deflect criticism, improve their image and reinforce their power.

Third, the release of prisoners benefits the individuals affected, but it is often a selective and politicized act. This persists today. U.S. President Donald Trump has recently pardoned [high-profile offenders known to support him](#), while [millions of Americans remain behind bars](#) in the world's [largest system of mass incarceration](#).

Historically, prison releases have been isolated acts that have not fundamentally challenged the prison system itself.

But we are in unprecedented times. Many have pointed out that the COVID-19 releases could be a step towards widespread decarceration and the [abolition of prisons](#).

The pandemic represents an important opportunity to think critically about the place of prisons and other penal institutions in our societies. COVID-19 could spark systemic change.

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