

Correcting an 80 Year-Old Mistake: A Review of the Indeterminate Sentence Law

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The Indeterminate Sentence Law (ISL) was enacted in 1933. Its purpose is to uplift and redeem valuable human material and prevent unnecessary and excessive deprivation of personal liberty and economic usefulness. The ISL considers a convicted person as an individual and a member of society. Thus, the State is not only interested in protecting the society against criminals but also in redeeming the criminal. As a rule, it is intended to favor the accused particularly to shorten his term of imprisonment, depending upon his behavior and his physical, mental, and moral record as a prisoner to be determined by the Board of Indeterminate Sentence.

According to many law practitioners, the ISL is hard to grasp — trial courts, appellate courts, and even the Supreme Court have trouble applying it. This Article shows and explains how the courts misapply the ISL. This misapplication eventually leads to prohibited judicial legislation.

Lastly, the Article calls forth law students and practitioners alike to study the Indeterminate Sentence Law to determine whether the ISL is the proper law to balance the State's interest in crime prevention and retributive justice with that of criminal rehabilitation