

REHABILITATION OF CONVICTS IN CRIMINAL LAW

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Abstract

Rehabilitation plays a crucial part in order to serve the criminal justice. Without a doubt it is very important dimension for Human rights. Unlike punitive justice, it aims to address the root reasons of crime and giving chance of personal development and social reintegration for the convicts. Rehabilitation as a approach doesn't believe that the punishment is the only measure in criminal law for serving justice and preventing the future crimes. It is a long-term plan for the safer society. It has its advantages and disadvantages when it comes to criminal law. Even though it is a part of the criminal justice system, it might be also crashing with it. This manuscript will present how rehabilitation works and it may help the convicts and the society with lowering the recidivism. Moreover, its methods and steps and legal practices will be analyzed in this manuscript.

Keywords: Recidivism, criminal justice, integration, convict

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1. INTRODUCTION

The process of re-educating and preparing persons who have committed a crime to re-enter society is known as rehabilitation. (Elisha, 2021) The legal meaning of rehabilitation is “the use of rehabilitative approaches rather than punishment to handle criminals in the prison system. Rehabilitation criminal justice focuses on assisting offenders in understanding their mistakes and preparing them to re-enter society as rehabilitated individual” (Elisha,2021).

According to the Panel on Research on Rehabilitative Techniques, “*Rehabilitation is the result of any planned intervent, on that reduces an offender’s further criminal activity, whether that reduction is mediated by personality, behavior, abilities, attitudes, values, or other factors. The effects of maturation and the effects Summary 5 associated with fear or intimidation are excluded, the results of the latter having traditionally been labeled as specific deterrence.* Moreover, Duff (2005) divides rehabilitation in two categories: Therapeutic Rehabilitation and Moral Rehabilitation. First one, Therapeutic Rehabilitation basically refers to restoring a condition of well-being that an individual has been deprived of. It implies that the individual has lost particular capacities such as physical, psychological or social. In that case rehabilitation aims to restore it. Secondly, as some other researches he argues that rehabilitation is a moral education for the convicts(Duff, 2005).

From all these approaches we can say that rehabilitation, rather than the punitive justice, aims to address the root causes of crime, reintegrate perpetrators into society, and mainly prevent future crimes. This approach is grounded in the belief that merely imposing punishment is insufficient (Diego, 2023). Instead, rehabilitation programs emphasize a more enduring and preventative approach, aiming to deter future criminal behavior by addressing underlying issues and with that lower the recidivism. Instead of just locking people up in crowded prisons, we should focus more on helping them change for the better. This means using programs that actually work, like treating drug addiction, providing mental health support, offering job training, and education. By dealing with the real reasons behind criminal behavior, we can give individuals a chance to get back into society as productive members (Diego, 2023).

As proposed in the holistic approach to criminal justice reform, rehabilitation is a critical pillar in shifting the system away from punitive tactics and toward proactive alternatives. The emphasis is on offering real possibilities for personal growth to individuals as well as addressing the underlying conditions that contribute to criminal behavior (Diego, 2023). By emphasizing rehabilitation over incarceration, the emphasis moves to evidence-based services such as drug treatment, mental health counseling, job training, and education. These projects seek to provide persons with the necessary skills and support networks to successfully reintegrate into society as productive citizens. Rather than just locking people up, the method emphasizes the necessity of creating a rehabilitative environment that

promotes personal development, healing, and addressing the underlying causes of criminal behavior.

Rehabilitation in the criminal justice system focuses on reintegrating offenders into society and avoiding recidivism and also understanding that incarceration does not address the root reasons of crimes. Aims of Rehabilitation of Convicts section outlines the goals of rehabilitation, with a focus on programs such as education, job training, and psychological assistance to improve prisoners' social and economic reintegration process. The Concept of Rehabilitation section covers history of rehabilitation, illustrating its growth from reform to a process aimed at behavioral change that does not rely on punitive deterrence. International standards acknowledge rehabilitation as a human right and stressing respectful treatment for inmates and their reintegration into society. However, ex-convicts often face with stigma, which challenges their reintegration and access to rights like as employment, housing and etc. Successful Rehabilitation and Programs examines rehabilitation programs which its international standards by emphasizing three essential principles: evidence-based techniques, cost-effectiveness, and a focus on high-risk offenders, all of which enhance the possibility of recidivism reduction.

Normative method which analysis of positive law provision, descriptive method which used to describe main terminology and institutes and comparative method used in this article.

2. AIMS OF REHABILITATION OF CONVICTS

One of the purposes of the criminal justice system is to reintegrate released convicts into society. Furthermore, the jail population is growing as a result of rising recidivism rates(Gideon, 2011). That's why it is necessary to find and apply other preventive functions in order to prevent the crime. Imprisonment itself is not enough to do it, because recidivism rate is still high as mentioned previously, and not even enough capacity for all the convicts.

So, rehabilitation programs such as education, teaching job skills, financial and psychological support once they are released and etc. are intended to minimize recidivism among incarcerated individuals by improving their habits, abilities, mental health, social functioning, and access to education and jobs. They may get involved in rehabilitation programs at various stages throughout their interaction with the criminal justice system, and programs are often administered in connection with some type of sanctions (Cheah, 2020).

Treatment strategies based on behavioral and social learning theories of change are commonly used in effective rehabilitation programs. Rehabilitation also attempts to educate and support people. To avoid recidivism, the program should be constructed in such a manner that the well-being of the convicts after serving a term in jail is taken into account. Inmates' perceptions of what is normal change as a result of rehabilitation. Drug and substance misuse crimes are among them (Cheah, 2020).

3. CONCEPT OF REHABILITATION

Rehabilitation of convicts has a long history which started in eighteenth century (Robinson & Iain Crow, 2009). However, defining rehabilitation is difficult due to various interpretations. It can be viewed as a general objective as well as a set of practices. Complicating matters are several related concepts, such as 'reform' and 'redemption,' some of which have historical roots and others that are more recent, such as 'reintegration' and 'resettlement.' What we see as in these terms is the 're' prefix is shared by these phrases, suggesting a return to a prior state. A broad definition associates rehabilitation with 'restoration,' implying a return to a desired previous state. In medical terms, rehabilitation is the process of returning a person to normalcy following physical damage (Robinson & Iain Crow, 2009). So, from this understanding when we look from the law perspective, this also the healing process for convicts. Only difference is, the rehabilitation of convicts doesn't try to fix physical damages but it is trying to remove the harm as physiological and sociological (Duff, 2005). To facilitate the rehabilitation of a broken arm, it must undergo treatment, and the underlying causes of the fracture need to be addressed. Similarly, for the convicts to undergo radical healing, it is essential to eliminate the factors that drive them to commit crimes, implement necessary programs, in order to prevent future crimes, and foster a peaceful societal environment.

In the concept of rehabilitation, there is no place for fear or intimidation even though it is very necessary for deterrence (Sechrest et al., 1979). Fear has an important role over the crimes in order to prevent it. Criminal law aims to spread fear for the criminals by giving punishment in so they won't commit a crime. Even though some research and results actually prove it otherwise (Omoregie, 2018). In that point, concept of rehabilitation rises up different from the deterrence a traditionally fear and crime method. This exclusion suggests a deliberate focus on interventions that go beyond punitive measures, aiming for a more holistic transformation in the offender (Omoregie, 2018). So, the whole idea is that rehabilitation is a purposeful and planned process especially for long-results with the overarching goal of diminishing an offender's inclination toward further criminal activities. By addressing and modifying various aspects of the individual, rehabilitation main goal is the reduction of recidivism as the preventive functions in criminal law (Sechrest et al., 1979).

3.1. Rehabilitation vs. Retribution

Retributivism is a philosophy of criminal punishment that holds that wrongdoers should be punished in proportion to the severity of their crime, rather than to discourage future crime or to rehabilitate them (Cornell Law School, Retributivism). Retribution discourages future criminal behavior by reducing the desire for personal vengeance against the convict (eLearning Support Initiative, 2015). Not only the vengeance but it can be sometimes an apology. When victims or society learn that a convict has been sufficiently punished for a crime, they gain a sense of satisfaction that our criminal justice system is functioning properly, which increases trust in law enforcement and our government.

Rehabilitation alters a convict's conduct, so preventing future crime. Educational and vocational programs, placement in treatment centers, and counseling are all examples of rehabilitation (eLearning Support Initiative, 2015).

When we look at the definitions which mentioned previous paragraph, both rehabilitation and retribution are part of criminal justice system. They have the same goal as the prevent future crimes with their own methods and approaches.

There are different approaches which scholars discuss in this regard. First one how rehabilitation should move to the retribution (Fennell, 1982). Because the legal system is preoccupied with rehabilitation, there is a lack of punishment for criminals, which contributes to the expanding crimes. To successfully handle the issue of crime, the criminal justice system should prioritize punishment and retribution is the best way to do it. Victims have a right to see perpetrators punished, and failing to do so is a terrible injustice. The notion of changing the cost-benefit ratio of crime is introduced, with the suggestion that increasing the perceived cost of illegal behaviors by rapid and severe punishment may dissuade future crimes (Fennell, 1982).

On the other it is important to discuss that how rehabilitation and retribution works together (Harrison, 2020). The combination of retribution and rehabilitation may be the most successful approach in order to reduce the crimes and help for convicts and the victims. As part of a holistic approach to controlling criminals, restorative justice might be included with retribution and rehabilitation. In short terms, retribution entails the punishment of criminals as a sort of society payback or moral retribution. In contrast, rehabilitation focuses on changing convicts in order to avoid future criminal activity. With that way criminal justice system can serve its purposes from the victims and the convicts side (Harrison, 2020).

3.2. Social Defence Motion

Depending on the context, the phrase "social defense" can have a variety of connotations. In general, social defense refers to a method or collection of actions used by a community to protect itself against external dangers (Ancel, 1965). In the context of criminal law, social defense might refer to societal techniques and procedures for preventing or responding to criminal activity. The protection of society from crime achieved by the forceful repression of crimes committed is referred to as social defense. This viewpoint resulted in extremely harsh punishment. This perspective establishes an opposition between collective defense and individual freedom or rights. According to this viewpoint, if social defense tries to provide ultimate safety for society, it may do so at the price of individual rights (Ancel, 1965).

Social defense is a modern and comprehensive view of how society confronts actions and persons that threaten the reasonable dynamics of the community. Laws are seen necessary under this framework for identifying the qualities and restrictions of conduct that endanger people's lives, property, and rational use of freedom. The goal of these legislation is

not punitive, but rather to use restrictions over infringing conduct based on the intrinsic threat to society. Rehabilitation is important to the approach to offenders, emphasizing the need to assist persons in reintegrating into society while providing proper restrictions to prevent hazardous activities from being repeated (Ancel, 1965).

4. REHABILITATION AND HUMAN RIGHTS

There are many international sources which ground for the international standards for the rehabilitation as a part of human rights. These sourced as following: Basic Principles for the Treatment for Prisoners of United Nation of Human Rights , the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, European Prison Rules (Luyt & Preez, 2006). UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (UN Bangkok Rules) , International Covenant on Civil and Political Rights are also example of the international sources which are dealing with the rehabilitation and convicts reintegration process (Rehabilitation and Reintegration: International Standards, n.d.).

According to the Basic Principles for the Treatment for Prisoners of United Nation of Human Rights office of the High Commissioner¹: “All prisoners shall be treated with the respect due to their inherent dignity and value as human beings” and “All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.” (United Nations, 1990). We understand from the first statement that it emphasizes the concept that regardless of a person's conduct or legal circumstances, they have intrinsic human dignity that must be recognized and protected.

Respecting prisoners entails ensuring that they are not subjected to harsh or humiliating treatment and that their fundamental human rights are respected. This policy seeks to avoid abuse or mistreatment of those in custody. Second statement emphasizes the necessity of giving chances for personal and intellectual growth to convicts while they are incarcerated. Cultural activities are chances for inmates to participate in activities that are relevant to them, such as artistic or religious activities. This helps them stay connected to their ethnic identity. The right to education stresses that convicts should have access to educational programs that help them develop as individuals. This might involve intellectual, vocational, or rehabilitative education geared on reintegrating individuals into society (United Nations, 1990).

1 Basic Principles for the Treatment of Prisoners : resolution / adopted by the General Assembly. Desiring to reflect the perspective noted by the 7th Congress on the Prevention of Crime and the Treatment of Offenders, namely that the function of the criminal justice system is to contribute to safeguarding the basic values and norms of society; recognizing the usefulness of drafting a declaration on the human rights of prisoners; affirms the Basic Principles for the Treatment of Prisoners, contained in the annex to the present resolution, and requests the Secretary-General to bring it to the attention of Member States.

Overall, these principles are represented in a number of international human rights agreements, notably the UN Standard Minimum Rules for the Treatment of Prisoners. The purpose is to guarantee that persons are treated with kindness even when incarcerated, supporting their rehabilitation and reintegration into society while preserving their basic human rights and dignity (United Nations Office on Drugs and Crime, 2016).

When we observe at Rule 25, 59, 88, 90, 96, 102, 107, 122 of Mandela Rules which known as UN Standard Minimum Rules for the Treatment of Prisoners, cover the importance rights of rehabilitation for convicts. Not only when they are in prison but also after they released (United Nations Office on Drugs and Crime, 2016). As we understand from all these international standards for the convicts, the rehabilitation is a part of fair treatment and human right. Convicts are also human and they have a right be treated as human. That might be the one of the most efficient way of healing process and it can save them from wrongdoing.

Ideas about rehabilitation of convicts have often been inspired by humanitarian concerns: that is, with the goal of humanizing the criminal justice system and making the experience of criminal punishment more positive and productive for the offender (Robinson & Iain Crow, 2009).

It is necessary to ask how persons within the retributive method, who complete their term and repay their responsibility to society after being acquitted, have difficulty achieving their human rights. Unfortunately, even though retribution and rehabilitative approach gives a chance for convicts to be part of society and use their human right, it is not always that simple. One of the biggest challenges they face with is a stigma which effects to find a job, regain their place in society and etc. As every individual, ex convicts have all these rights yet it is not easy to achieve it (Palgan & Apolinario, 2022). We can look this approach differently, one from the convict's side and the other is from the society. From the, criminology and penology approach it is clear that after they serve their time, ex offender should enjoy all the rights as much as every other individual when they back to the society. But, it is hard to change people's perspective and stigmas over the convicts which won't allow them easily to reenter back to the society and live the normal life they may imagine.

5. EFFECTIVE REHABILITATION AND PROGRAMS

If a rehabilitation program follows three key principles, it is more likely to reduce recidivism. Firstly, the program should be "evidence-based," which means it should be modeled after a proven program that reduces recidivism and operate in the same way. Second, the program's cost effectiveness should be assessed. Third, the program should prioritize high risk and high need inmates because they have the greatest potential to reduce recidivism (Legislative Analyst's Office, 2017).

The effective programs are those that match the intervention to the needs, circumstances, and learning styles of individuals. Successful rehabilitation is dependent not

only on the type of treatment provided, but also on the conditions under which it is provided (Howells et al., 1999).

Moreover, selection of offender, skills oriented, engagement and motivation and evaluation have big places in order to provide efficient rehabilitative programs for convicts (Lipton et al., 2000).

5.1. Sexual Offender Programs

There are different types of crimes and convicts. That's why there are varieties of rehabilitation programs. Even though the key elements are mostly the same, as mentioned previous part, for the effective programs there should be different methods and outcomes for each single crime and offender. There are punishments such as retribution, detention and etc. for sexual offender in criminal law. As the other methods rehabilitation is one of the main preventive functions (Coghlan, 2003).

When we look from the rehabilitation theorist's perspective, we see that they support incapacitation of convicts in order to address their mental problems, diseases, or proclivity for criminal action. The goal of rehabilitation is to change the offender's beliefs and tendencies toward criminal activity. They believed that the danger connected with sex offences can be reduced with an effective diagnosis and the adoption of therapeutic and clinical measures. In other words, rehabilitation theorists claim that sex offenders may be effectively treated and changed with focused treatments that address the underlying issues that contribute to their criminal behavior (Coghlan, 2003).

Polaschek examines three prominent theories of sexual offending. Malamuth and colleagues' initial hypothesis highlights the confluence of motivational, inhibitory, and opportunistic elements for sexual aggressiveness. According to this approach, treatment entails addressing individual motivational factors in order to lessen desire in abusive sexual conduct. Another theory of Marshall and Barbaree's, putting importance of the function of empathy and intimate connection challenges in generating sexual misconduct. The main emphasizes of this model is the impact of adversity on man, which leads to a lack of confidence, empathy, and relationship skills. So, this theory tries to increase empathy and accountability. It is essential for convicts to understand consequences of sexual assault on victims. The third theory which is very important comes from Hall and Hirschman. They mainly focus on physiological arousal, cognitions justifying aggression, affective decontrol, and developmentally deprived personality problems which also helps for convicts to understand his misbehavior with the therapy in order to give them the realization and responsibility of their crime (Day & Howells, 2000).

Overall, the outcome of all these theories is the necessity of considering motivational, developmental, and psychological elements when developing effective treatment programs for sexual offenders. To reduce the recidivism, these may include

improving social and interpersonal skills, changing aberrant arousal patterns, and cultivating empathy.

According to evaluations of sex offender treatments, programs help for the reducing the recidivism (Day & Howells, 2000). For example, cognitive behavioral therapy and community based treatment programs lower the sexual offence which committed by high-risk sexual offenders. (Newhouse, 2023)

5.2. Drug Abuse and Addictions Programs

The link between drugs and crime has a long history, is frequently documented in media reports, and is the subject of much scientific research. Drugs can be linked to crime if they induce a mental or physical condition favorable to lawbreaking, create a perceived need that motivates people to steal, or result in a decrease in access to formal mediation and an increase in predatory and retaliatory crimes (Wright & Jacques, 2017).

Addiction has a cure and it is a disorder which can be treatable. But, unfortunately most people who is addict, do not get the treatment. As it mentioned previously, there is a strong link between drugs and the crime. That's why it is very important to search this link and give the essential treatment for the convicts who commit crimes because of their addiction. Involvement in the criminal justice system is frequently the outcome of illicit drug-seeking behavior and engagement in illegal actions, both of which reflect disordered behavior caused by brain alterations caused by recurrent drug use. Treatment of drug-addicted criminals offers a unique chance to minimize substance usage and related criminal conduct (Chandler et al., 2019).

Statistics show that jail alone is ineffective in managing drug misuse or addiction. A study of recidivism in 15 states discovered that one-quarter of those released returned to jail within three years for technical offenses such as testing positive for drug usage, among other things. Despite their highly organized, controlled environments, illicit substances are used in jails and prisons, but even enforced abstinence might lead criminal justice professionals and addicted individuals to underestimate the vulnerability to relapse post incarceration. On the other hand, over the last two decades, research has repeatedly demonstrated the positive impacts of drug misuse treatment in the criminal justice system. Therapeutic alternatives to incarceration, therapy combined with judicial monitoring in drug courts, prison- and jail-based therapies, and reentry programs designed to assist offenders in transitioning from incarceration back into the community are among the interventions available (Chandler et al., 2019). In short term, imprisonment itself is not enough in order to prevent future crimes for the addicts. It might be the solution for the current time, since they cannot use the drugs while serving their time in prison but for long-term solution, rehabilitation is essential. Because, rehabilitation programs can help to move the core reason of using the drugs and treat the addicts. With that the convict can have healthier life and become a law-abiding citizen. This is not help for only the individuals but also very important for the safe and secure society.

5.3. Rehabilitation of Juveniles

May be the one of the most important category and programs for rehabilitation is for juveniles. Their jurisdiction is different than the adults because they are still a child who under the age of 18 by law. That's why its more sensitive and important. Rehabilitating juveniles are very essential and critic. On the other hand, for the public safety and accountability, they should be also under the criminal justice. In short words, Juveniles who break the law face consequences for their behavior and in order to guarantee public safety, they are placed in juvenile homes or penal facilities. The approach to juvenile offenders that emphasizes rehabilitation rather than harsh punishment (Dhingra, 2019). The purpose of the juvenile justice system is to offer a separate and distinct system of justice for juveniles, where young offenders can get the assistance and support they need to become productive members of society (Juvenile Offenders and the Ability for Rehabilitation: Understanding the Issues and Challenges, 2023). So, the main goal under this approach is not just to punish juveniles but actually rehabilitate them. This is a multifaceted approach that takes into account psychological variables, therapeutic treatments, skill development, and participation in positive activities. The participation of social workers and non-profit groups aids in overcoming budgetary limits, ensuring that rehabilitation programs are both accessible and successful (Dhingra, 2019).

There are challenges as much as the benefits when it comes to the rehabilitation of juveniles. The main challenges are lack of sources and support, stigmas, discrimination, effective methods and programs and etc. Rehabilitation programs need to have a good resource and strong funds in order to provide effective services for the juveniles. Education, psychological support and treatment are essential for juveniles rehabilitation and in order to make it effective funds in this programs by the state and organizations are very much needed. After proper rehabilitation programs unfortunately like the any other convicts, juveniles are also facing the stigma and discrimination by the society. This might be the biggest challenge for them. This stigma, discrimination and lack of support once they released can affect whole their life. It can start from school to working place once they start working. Because, they were in the criminal justice system, their teachers, bosses, other students or colleagues can be prejudiced and discriminatory. This is a big wound in our society not only for juveniles but for also any other convicts. Unfortunately, rehabilitation of convicts doesn't also rehabilitate the other people in order to help for convicts to reenter back to the society (Juvenile Offenders and the Ability for Rehabilitation: Understanding the Issues and Challenges, 2023). Changing people's perspective is harder than the splitting an atom. Because, it is based on many years of experience, religion, culture and individuals' morals. But, it doesn't mean that we shouldn't try to change this. For a strong and effective educations and programs for the society, it might me change at least on some people and by the time these efforts can actually answer back.

5.3.1. The Beijing Rules

Many countries have expressed worry about the increased prevalence and severity of juvenile delinquency. It is critical not only to avoid delinquency by judicial measures, but also to defend the well-being and rights of all adolescents who are in dispute with the law. Under the auspices of the United Nations, the approach to juvenile delinquency, administration of juvenile justice, and protection of the young has experienced a progressive development of thinking and action (Juvenile Justice, 1985).

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) were adopted on 1985 by the General Assembly. They offer advice on the administration of juvenile justice, highlighting the importance of a juvenile justice system centered on the rehabilitation and reintegration of young offenders (Juvenile Justice, 1985).

Article 5 of The Beijing Rules refers to two of the most significant goals of juvenile justice. The first goal is to promote the well-being of juveniles. This is the primary focus of legal systems in which juvenile offenders are dealt with by family courts or administrative authorities, but the juvenile's well-being should also be emphasized in legal systems that follow the criminal court model, helping to avoid merely punitive sanctions. "The principle of proportionality" is the second goal. This theory is well-known as a tool for reducing punitive punishments, which are typically articulated in terms of fair desserts in relation to the degree of the offense. The reaction to juvenile offenders should take into account not just the seriousness of the offense but also the offender's personal circumstances (United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("the Beijing Rules") , 1985).

5.3.2. Riyadh Rules

United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) is one of the most important legal sources in order to provide international standards for the juveniles within the scope of criminal justice. Declares that the rules should be understood within the context of human rights, particularly declarations and covenants concerning the rights and well-being of children and young people (General Assembly, 1990).

The goal of these recommendations is to provide a comprehensive and integrated strategy to preventing juvenile delinquency by addressing fundamental causes, encouraging positive development, and protecting young people's well-being. The recommendations seek to establish a supportive environment that fosters the effective socialization and integration of all children and young people by stressing a child-centered approach and incorporating families, communities, and educational institutions. The emphasis is on prevention, rehabilitation, and general development of young people in order to create a peaceful and crime-free community (General Assembly, 1990).

5.3.3. Tokyo Rules

United Nations Standard Minimum Rules for Non-custodial Measures which also known as Tokyo Rules adopted by United Nations on 1990 (United Nations, 1990). They are a significant worldwide standard for encouraging the use of non-custodial remedies and punishments, with the ultimate goal of reducing the harmful effects of incarceration on both offenders and society. The regulations specify minimal safeguards for persons subjected to alternatives to incarceration and give a set of core principles and guidelines for their application. The Tokyo Rules are based on the premise that alternatives to jail can be successful in addressing criminal conduct while limiting the negative repercussions of incarceration. The guidelines' principles provide forth a framework for legal and criminal justice systems to adopt procedures that emphasize the best interests of both offenders and society. The Tokyo Rules aim to promote a more balanced and compassionate approach to criminal justice by emphasizing the prudent use of pre-trial detention, the creation of non-custodial alternatives, the tailored selection of measures, and the professional training and fair remuneration of people (United Nations, 1990).

According to the United Nations (1990), Tokyo Rules article 4 states as “*Nothing in these Rules shall be interpreted as precluding the application of the Standard Minimum Rules for the Treatment of Prisoners, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment or any other human rights instruments and standards recognized by the international community and relating to the treatment of offenders and the protection of their basic human rights.*” Which means that The Tokyo Rules should not be construed in such a way that it precludes the implementation of other international human rights agreements and standards. In essence, it highlights the need of treating criminals holistically and comprehensively, ensuring that fundamental human rights are maintained throughout all parts of the criminal justice system, including juveniles. So, the other international standards for the juveniles which previously mentioned is also part of the Tokyo rules and they all work together as harmonized principles.

6. CONCLUSION

Rehabilitation helps convicts to understand their crime, empathize with the victims, remove the core reasons which trigger make them to commit a crime and also helps for their process of reentering the society in order to regain their place and statue.

Rehabilitation has many advantages and positive outcomes when we compare with punishment. As it mentioned previously in the chapters, punishment itself is not enough in order to lower the recidivism. New approach is more focus on combination of preventive justice such as rehabilitation and retribution with the restorative justice.

The effective programs especially for the juveniles are essential. Recent studies emphasize numerous critical discoveries and solutions for improving existing procedures in

the quest of successful offender treatment and rehabilitation. The literature on 'what works' shows that various measures, such as Systems Thinking, Controlled Evaluations of Routine Practice, Systematic Process Evaluation, Integration of Natural Protective Factors, Emphasis on Relationship Issues, Differentiation and Individualization, Direct Comparisons of Custodial and Community Measures, Attention to Cost-Benefit Issues, and Consideration of National and Cultural Differences (Maguire et al., 2012).

Punishment is merely a means of making an offender pay for the offense they committed; it will not change the offender's conduct. Rehabilitation guarantees that the criminal learns from his or her mistakes and becomes a productive member of society. Punishment seeks to serve justice, whereas rehabilitation seeks to enhance the general status of society by rehabilitating offenders (Criminal Justice Journal, 2020). On the other hand, rehabilitation also has its challenges and limitation. Lack of resources, effective programs and methods, lack of support and other factors can make it hard to serve its purposes in order to achieve the main goal of rehabilitation which is lowering the recidivism and helping convicts to reenter to society for the safe and secure society.

It is clear that rehabilitation of ex-convicts in criminal law, address the root reason of the crime and with that way it support the ex-convicts reintegration process into society. In order to achieve the goals of rehabilitation of ex-convicts, a structured framework could be proposed, emphasizing the importance of standardized rehabilitation policies, increased investment in mental health, education, and vocational training, and fostering partnerships with community organizations to support post-release reintegration. Furthermore, ongoing evaluation of rehabilitation activities is critical to ensuring effectiveness and adaptability. To address the underlying causes of crime and facilitate successful reintegration, governments and appropriate agencies must engage in rehabilitation programs ranging from mental health care to education and vocational training for inmates.

Establishing systems for routinely analyzing the effectiveness of rehabilitation initiatives on recidivism rates and societal safety will guarantee that these programs continue to be effective and adapt to changing demands. By applying such a framework, criminal justice systems can promote a more balanced approach to dealing with criminal cases—one that not only punishes but also seeks change, ultimately contributing to a safer and more just society.

We shouldn't forget that at the end of the day convicts are human and they also have rights. As a part of human rights, rehabilitation programs, fair and respectful approach is necessary. Only with that way we can save them, protect the society from crimes, and gain the law-abiding citizens.

LIST OF REFERENCES

- Berndtson, A., (1970) "The Meaning of Power" 31(1) *Philosophy and Phenomenological Research*. 73-84. Ancel, M. (1965). *Social defence : a modern approach to criminal problems* (Vol. 250). Routledge-Kegan Paul.
- Chandler, R. K., Fletcher, B. W., & Volkow, N. D. (2019). Treating Drug Abuse and Addiction in the Criminal Justice System. *JAMA*, 301(2), 183. <https://doi.org/10.1001/jama.2008.976>
- Cheah, P. K., Unnithan, N. P., & Raran, A. M. S. (2020). *Rehabilitation programs for incarcerated drug offenders in Malaysia: Experience based perspectives on reintegration and recidivism*: The Prison Journal, pp. 201-223.
- Coghlan, M. A. (2003). *Sex offenders and the criminal justice system: An exploration of public opinion*. (pp. 4–5) [Dissertation]. <https://scholar.uwindsor.ca/cgi/viewcontent.cgi?article=4440&context=etd>
- Cornell Law School (no date) *Retributivism*, Legal Information Institute. Available at: <https://www.law.cornell.edu/wex/retributivism> (Accessed: 14 November 2024).
- Criminal Justice Journal. (2020, July 7). *Punishment VS Rehabilitation In The Criminal Justice System Pros & Cons*. CJ US JOBS. <https://cjusjobs.com/punishment-vs-rehabilitation-in-the-criminal-justice-system/>
- Day, A., Howells, K. (2000) *Applying Theory and Research to Offender Rehabilitation - What Should Practitioners Know?*. The British Journal of Forensic Practice. Vol. 2 Iss 3 pp. 10 – 18
- Dhingra, A. (2019, June 24). *Rehabilitation of juveniles*. IPleaders. <https://blog.ipleaders.in/rehabilitation-of-juveniles/>
- Diego, V. (2023). *Building Bridges, Not Walls: A Holistic Approach to Criminal Justice Reform*. Department of public health, Stanford University . https://www.researchgate.net/publication/372776298_Building_Bridges_Not_Walls_A_Holistic_Approach_to_Criminal_Justice_Reform
- Duff, A. (2005). *Punishment and Rehabilitation – or punishment as rehabilitation*, *Criminal Justice Matters*. Routledge. 60:1, 18-19, DOI: 10.1080/09627250508553608
- Elisha, M. (November 18, 2021). *Criminal Rehabilitation: Programs, Statistics & Definition*. Study.com. Retrieved April 25, 2023.

- Fennell, J. T. (1982). Just Retribution: The Alternative to Rehabilitation. *Probation Journal*, 1(0264-5505), 15–18. DOI: 10.1177/026455058202900105
- General Assembly. (1990). *United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)*. OHCHR. <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-guidelines-prevention-juvenile-delinquency-riyadh>
- Gideon, L. and Sung, H.-E. (2011) *Rethinking corrections: Rehabilitation, reentry, and reintegration*. Los Angeles Calif.: SAGE.
- Harrison, K. (2020). *Penology : theory, policy and practice*. Red Globe Press.
- Howells, K., Day, A., & Australian Institute Of Criminology. (1999). *The Rehabilitation of offenders : International perspectives applied to Australian correctional systems*. Australian Institute Of Criminology.
- Juvenile Justice*. (1985). UNODC; 96th plenary meeting. <https://www.unodc.org/pdf/crime/uncjin/standards/Compendium/pt1e.pdf>
- Juvenile Offenders and the Ability for Rehabilitation: Understanding the Issues and Challenges*. (2023, June 4). Law Offices of John D. Rogers. <https://johndrogerslaw.com/juvenile-offenders-and-the-ability-for-rehabilitation-understanding-the-issues-and-challenges/>
- Legislative Analyst's Office. (2017, December 6). *Improving In-Prison Rehabilitation Programs*. Ca.gov. <https://lao.ca.gov/Publications/Report/3720>
- Lipton, D.S., Thornton, D.M., McGuire, J. et al. (2000) *Program accreditation and correctional treatment. Substance Use and Misuse*, 35, 1705–1734.
- Luyt, W., & Preez, N. du . (2006). International and Other Standards That Influence the Rehabilitation and Education of Offenders. *Corrections Compendium*, 31(2), 8, 9, 36, 38.
- Maguire, M., Morgan, R., & Reiner, R. (2012). *The Oxford Handbook of Criminology* (5th ed.). Oxford University Press.
- Newhouse, K.M. (2023), Sex Offender Treatment and Recidivism Reduction Strategies. Culminating Projects in Criminal Justice. 19. https://repository.stcloudstate.edu/cjs_etds/19
- Omoregie J. (2018) *The Role of Neighbourhood Condition and Ethnicity on Fear of Crime*.
Available at SSRN: <https://ssrn.com/abstract=3135478> or <http://dx.doi.org/10.2139/ssrn.3135478>

- Palgan, M. D., & Apolinario, R. C. (2022). Walking a New Beginning: A Case Study on the Chronicles of Ex-Offenders in Surpassing the Challenges of Living Outside the Bars. *American Journal of Qualitative Research*, 6(1), 178–187. <https://doi.org/10.29333/ajqr/11963>
- Publisher, A. removed at request of original. (2015, December 17). 1.5 *The Purposes of Punishment*. Open.lib.umn.edu; University of Minnesota Libraries Publishing edition, 2015. This edition adapted from a work originally produced in 2010 by a publisher who has requested that it not receive attribution. <https://open.lib.umn.edu/criminallaw/chapter/1-5-the-purposes-of-punishment/#:~:text=Rehabilitation%20prevents%20crime%20by%20altering>
- Rehabilitation and reintegration: international standards*. (n.d.). Penal Reform International. Retrieved December 2, 2023, from <https://www.penalreform.org/issues/reintegration-and-rehabilitation/international-standards/>
- Robinson, G., & Iain Crow. (2009). *Offender rehabilitation in context : Theory, policy and practice*. Sage.
- Sechrest, L., White, S. O., & Brown, E. D. (Eds.). (1979). *The Rehabilitation of Criminal Offenders: Problems and Prospects* . National Research Council.
- United Nations Office on Drugs and Crime. (2016). *United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)*. *International Legal Materials*, 55(6), 1180–1205. <https://doi.org/10.1017/s0020782900030898>
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")* . (1985). General Assembly resolution 40/33.
- United Nations. (1990, December 14). *Basic Principles for the Treatment of Prisoners*. OHCHR. <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-treatment-prisoners>
- United Nations. (1990). *United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)*. <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/tokyorules.pdf>
- Wright, R., & Jacques, S. (2017). *Drugs and Crime*. Obo. <https://www.oxfordbibliographies.com/display/document/obo-9780195396607/obo-9780195396607-0061.xml#:~:text=In%20short%2C%20drugs%20can%20be>