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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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REFORMING JUSTICE: THE INTERSECTION OF REHABILITATION AND PUNISHMENT AND THE ETHICAL IMPERATIVE FOR REHABILITATION IN INDIAN CRIMINAL FRAMEWORK

AUTHORED BY - NANDINI DEVULAPALLI,

Symbiosis Law School, Hyderabad.

BA.LLB

1. Introduction

Finding a balance between punishing offenders and providing them with rehabilitation is an objective of the criminal justice system. The continual debate over these two strategies has always been at the core of law. In terms of justice, the purpose of this research study is to compare and contrast punishment and rehabilitation. This study attempts to shed light on the advantages and disadvantages of rehabilitation and punishment strategies through an analysis of case studies, scholarly works, and empirical information. This research project focuses on advancing the thought of the criminal justice system's approaches to deterrence and retribution of offenders and ultimately aims to contribute to a comprehensive understanding of how the criminal justice system addresses offender rehabilitation and punishment.

The concepts of rehabilitation and punishment play roles in the field of law and are subjects of frequent discussion and debate. Rehabilitation emphasizes the idea of helping offenders reform and become members of society again. This approach focuses on addressing the root causes of behaviour, such as addiction or psychological issues¹. On the other hand, punishment aims to impose penalties and sanctions on offenders as a way to seek justice and discourage wrongdoing. Both rehabilitation and punishment have their strengths and weaknesses, and researchers have extensively studied their effectiveness in reducing crime rates and reintegrating offenders into society. It is essential to comprehend the lasting effects of these methods as we shape criminal justice strategies, ultimately leading to a fairer society.

¹ Rehabilitate or punish?, [HTTPS://WWW.APA.ORG](https://www.apa.org), <https://www.apa.org/monitor/julaug03/rehab> (last visited Dec 15, 2024).

This paper shall discuss the various aspects of the ideas of rehabilitation and punishment under criminal law, seeking to critically analyze and compare each one's efficacy with regard to the Indian context.

2. Theoretical Foundations and Key Proponents of Rehabilitation and Punishment

Researchers have extensively investigated the efficacy of both rehabilitation and punishment in lowering crime rates and reintegrating convicts into society. However, both have strengths and shortcomings. In criminal law, the idea of rehabilitation versus punishment has long been the focus of heated discussion.

2.1 Key Proponents of the 'Theory of Rehabilitation' with reference to their scholarly works:

A. Alexander Patterson:

Patterson was a pioneer in the use of the restorative approach in criminal law. He supported probation as a punishment option rather than imprisonment because he thought offenders had the capacity to undergo personal change. In his work "*The Experiments of Sir Alexander Paterson*"², he outlined the potential for rehabilitation of convicts by outlining his experiences with probation.

B. Howard Zehr:

Zehr is a significant contributor to the restorative justice movement. He contends that the goal of rehabilitation should be to mend the damage done by crime as well as to encourage communication and peace-making between victims, offenders, and communities.

In one of Zehr's prominent publications, '*Changing Lenses: A New Focus for Crime and Justice*'³ he put forth his ideas on rehabilitation through restorative principles.

C. Joan Petersilia:

Petersilia is a criminologist who has studied the efficiency of rehabilitation programmes in detail. Her study focuses on the importance of comprehensive reintegration strategies and evidence-based practices to mitigate recidivism.

²ALEXANDER PATTERSON, *The Experiments of Sir Alexander Patterson* (1844).

³HOWARD ZEHR, *Changing Lenses: A New Focus for Crime and Justice* (1990).

Petersilia's influential books, such as *'When Prisoners Come Home: Parole and Prisoner Re-entry'*⁴ and *'The Influence of Criminal Justice Research'*⁵, strongly emphasize rehabilitation as a key component of successful re-entry measures.

2.2 Key Proponents of the 'Theory of Punishment' with reference to their scholarly works

A. Jeremy Bentham:

According to utilitarian philosopher Jeremy Bentham, punishment ought to always be employed to further the interests of the largest number of people. He promoted the idea of "the greatest happiness of the greatest number," contending that punishment would both discourage crime and increase societal contentment as a whole. The *'Introduction to the Principles of Morals and Legislation'*⁶, one of Bentham's seminal pieces on punishment, offered his utilitarian theory of punishment and put forth the concept of a *panopticon*—a prison layout that permits continuous observation.

B. Immanuel Kant:

Kant, a deontologist, believed that the moral principle of retribution or recompense is the foundation for punishment. In his writings, including *'The Metaphysics of Morals'*⁷ and *'The Philosophy of Law'*⁸ Kant discusses his views on punishment, suggesting that regardless of the results or utility of punishment, the acts of those who commit crimes must be met with punishment because they deserve it.

C. Cesare Beccaria

Beccaria, an Enlightenment philosopher who is recognized for his conventional criminology school, outlined his viewpoints on punishment, legal reform, and the necessity of fair and reasonable criminal legislation in his most well-known book, *'On Crimes and Punishments'*⁹. He argued for appropriate punishment and highlighted the significance of prompt and definitive punishments as criminal deterrents.

⁴ JOAN PETERSILIA, *When Prisoners Come Home: Parole and Prisoner Re-entry* (2003).

⁵ JOAN PETERSILIA, *The Influence of Criminal Justice Research* (1987).

⁶ JEREMY BENTHAM, *Introduction to the Principles of Morals and Legislation* (1789).

⁷ IMMANUEL KANT, *The Metaphysics of Morals* (1797).

⁸ IMMANUEL KANT, *The Philosophy of Law* (1797).

⁹ CESARE BECCARIA, *On Crimes and Punishments* (1764).

3. Research Questions:

- a) What is the fundamental goal of the criminal justice system in India, and how do punishment and rehabilitation aid this goal?
- b) How do cultural, social, and economic factors influence the choice between rehabilitation and punishment for different categories of offenders in India?
- c) What ethical considerations and human rights implications arise from the use of punishment as a primary approach in the criminal justice system?
- d) To what extent do legislative and policy frameworks in India align with the standards set by legal development and best practices in balancing rehabilitation and punishment in criminal law?

4. Research Objectives

The objective is a deeper understanding of the efficacy, moral and ethical issues, and societal consequences of rehabilitation and punishment in the context of criminal justice. The study would specifically seek to assess the downsides, addressing recidivism associated with both approaches. The objectives of the research study include examining the factors influencing the choice between rehabilitation and punishment, assessing the perspectives of key stakeholders such as offenders, victims, and those working in the criminal justice system, and taking into account the implications of these findings for the development and reform of criminal justice policies and practices.

5. Research Methodology

This research adopts a **doctrinal methodology**, focusing on the analysis of primary and secondary legal sources to explore the interplay between rehabilitation and punishment in criminal law. Primary sources such as the Bhartiya Nyaya Sanhitha (BNS), Bhartiya Nagarik Suraksha Sanhitha (BNSS), and relevant case laws were critically examined to understand the legal frameworks underpinning both approaches. Secondary sources, including scholarly books, peer-reviewed articles, and empirical studies, were reviewed to analyze theoretical perspectives and practical implications. This methodology is particularly suited to understanding the legislative intent, judicial interpretation, and theoretical foundations of punishment and rehabilitation within the Indian context.

To provide a broader perspective, the research incorporates **comparative analysis**, juxtaposing India's criminal justice policies with international models such as restorative justice practices in Norway and Sweden. This comparison highlights the strengths and limitations of existing frameworks and identifies best practices that could be adapted to the Indian scenario. Qualitative data from government reports and statistical data published by the National Crime Records Bureau (NCRB) were included to ground the analysis in real-world context.

6. Historical Development Of Rehabilitation And Punishment

Philosophies In Criminal Justice

The idea of punishment has changed significantly over history, from the uncivil physical punishment of previous centuries to the current criminal justice system's emphasis on incarceration. Throughout the world, the idea of punishment developed along with the development of the "state" as a governing body and the control it exercised over its citizens. It was seen as a sanction imposed by the State, and such punishment was the most widely used form of correction back in the day from the 17th century.¹⁰

The idea of rehabilitation gained popularity in the 19th century when it was thought that criminals might be reformed by means of job and education programmes. The 20th century, however, saw a change towards a more punitive strategy that put more emphasis on punishment than rehabilitation. This change can be ascribed to a number of things, such as an increase in crime rates and diminishing faith in the success of rehabilitation initiatives. As a result, institutions started to emphasize punishment more than rehabilitation.¹¹ The effectiveness and morality of punishment versus rehabilitation in criminal law have been critically evaluated as a result of this tendency, which persisted well into the twenty-first century.

7. Rehabilitation under Criminal Law

7.1 Definition and principles of rehabilitation

¹⁰ History of Corrections—Punishment, Prevention, or Rehabilitation? | Encyclopedia.com, <https://www.encyclopedia.com/reference/encyclopedias-almanacs-transcripts-and-maps/history-corrections-punishment-prevention-or-rehabilitation> (last visited Dec 16, 2024).

¹¹ David Carter, *8.1. A Brief History of The Philosophies of Punishment* (2019), <https://openoregon.pressbooks.pub/ccj230/chapter/9-1-a-brief-history-of-the-philosophies-of-punishment/> (last visited Oct 16, 2024).

In criminal law, rehabilitation is a theory and method that tries to reform criminal offenders and reintegrate them into society by addressing the root causes of their illicit conduct or criminal behaviour.¹² It focuses on assisting people in becoming law-abiding, productive members of society.

The concept of rehabilitation is based on the following principles:

1. Rehabilitation is based on the idea of human dignity, which acknowledges that every person is valuable and has the potential to change. While upholding the rights and humanity of criminals, it rejects the idea that criminal behaviour is a permanent state and aims to address its roots.
2. Each offender in rehabilitation is treated as a different individual with unique requirements, experiences, and situations. It shows how crucial it is to carry out individual evaluations in order to identify the precise causes of each person's criminal behaviour.
3. The foundation of efficient rehabilitation is recognizing and meeting the *criminogenic requirements*¹³ of offenders. The chance of someone reoffending has a strong connection with criminogenic needs. Substance abuse, mental health problems, a lack of education, or a lack of employment abilities come under such needs.
4. To successfully prepare convicts for reintegration into society is the ultimate objective of rehabilitation. Measures such as offering education, vocational training, and life skills development are undertaken to improve a person's capacity to find work and live a law-abiding life after release.
5. Rehabilitation acknowledges the significance of community resources and assistance in reintegration.

7.2 Rehabilitation techniques and interventions:

There are many different rehabilitation methods, and they vary based on the individual requirements of the offender, the type of crime committed, and the resources available in the criminal justice system.

¹² REHABILITATION | English meaning - Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/rehabilitation> (last visited Dec 16, 2024).

¹³ Criminogenic Theories, FORENSIC FUNDAMENTALS, <https://forensicfundamentals.com.au/articles/criminogenic-theories/> (last visited Dec 16, 2024).

- i. Counseling and therapy are methods that include individual and group sessions for the offenders to interact with a professional in the respective field, aiding them in fighting psychological issues.¹⁴
- ii. Specialized substance abuse and de-toxication programmes are very effective rehabilitation schemes.
- iii. Providing the offenders with educational, employment, and skill-development programs so as to help produce an effective human resource for the nation while simultaneously promoting their self-development.
- iv. Providing Cognitive Behavioural Programmes¹⁵ focussed on changing the negative thought patterns of the convicts and helping them resolve anger-management challenges.
- v. Implementing Restorative Justice Programs in which victims and offenders together can discuss the harm caused by the crime, seek reconciliation, and determine restitution.
- vi. Invoking Community Service schemes, urging offenders to perform tasks that benefit the community and help repair the harm they have caused.

This has been provided for in the latest **Bharatiya Nyaya Sanhita (BNS) 2023**, which introduces community service as a form of punishment for various offenses, marking a significant shift from the previous frameworks under the IPC and CrPC. Specifically, Section 202 of the BNS allows courts to impose community service for offenses where imprisonment is less than seven years, emphasizing rehabilitation and restorative justice.¹⁶

7.3 Critique of Rehabilitation

Critics of rehabilitation in criminal law argue that the effectiveness of rehabilitation is overestimated since not all criminals benefit from programmes and services designed for rehabilitation.¹⁷ They argue that emphasizing rehabilitation at the expense of the disciplinary or punitive measures of the justice system might result in certain crimes being given lenient punishments. The possibility of forceful or invasive participation in an offender's life also

¹⁴ Interventions in rehabilitation - Rehabilitation Matters, (2022), <https://rehabilitationmatters.com/what-is-rehabilitation-2/process-of-rehabilitation/interventions-in-rehabilitation/> (last visited Dec 16, 2024).

¹⁵ Cognitive-behavioral therapy (CBT) for individuals involved in the justice system | County Health Rankings & Roadmaps, (2024), <https://www.countyhealthrankings.org/strategies-and-solutions/what-works-for-health/strategies/cognitive-behavioral-therapy-cbt-for-individuals-involved-in-the-justice-system> (last visited Dec 16, 2024).

¹⁶ Bharatiya Nyaya Sanhita, 2023, § 202, India.

¹⁷ Francis T. Cullen, *Rehabilitation: Beyond Nothing Works*, 42 CRIME JUSTICE 299 (2013).

sparks a debate about the necessity of such programs.¹⁸ Additionally, it is pointed out that conducting comprehensive rehabilitation programmes puts a constraint on resources, resulting in variations in the reach and quality of such programmes. Furthermore, it is difficult to determine the success of rehabilitation initiatives due to the inherent difficulty of assessing a person's capacity for change and the danger of *recidivism*, raising questions regarding how effective it is as an independent means of addressing criminal behaviour.¹⁹

Recidivism is the tendency of those involved in criminal behaviour in the past to commit offenses after rehabilitation²⁰. Such persons, often referred to as “habitual offenders”, pose a threat to the philosophy of rehabilitation in criminal law by emphasizing the complicated and multidimensional character of criminal behaviour. High recidivism rates suggest that rehabilitation efforts may not always succeed in addressing criminal conduct. Recidivism shows the shortcomings of rehabilitation as the only approach in criminal justice, challenging the idealistic notion that offenders can constantly change and reintegrate into society.²¹

8. Punishment in Criminal Law

8.1 Definition and Principles of Punishment:

Punishment is the act of imposing a penalty or sanction on someone who has committed a crime or an offense. It is a form of social control used by the state to maintain law and order and to deter individuals from engaging in unlawful activities. Punishment is a legal process that is governed by laws and regulations and must adhere to certain principles and guidelines to ensure fairness and justice.

In criminal law, the application of punishment is guided by many essential principles that aim to provide justice, deterrence, fairness, and societal protection. These concepts provide a framework for evaluating suitable criminal sanctions. Such principles are:

¹⁸ Seven Arguments Against Rehabilitation - An Assessment of Their Validity | Office of Justice Programs, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/seven-arguments-against-rehabilitation-assessment-their-validity>(last visited Dec 16, 2024)

¹⁹ Against rehabilitation: for reparative justice | Centre for Crime and Justice Studies, <https://www.crimeandjustice.org.uk/publications/cjm/article/against-rehabilitation-reparative-justice>(last visited Dec 16, 2024)

²⁰ Recidivism | National Institute of Justice, <https://nij.ojp.gov/topics/corrections/recidivism> (last visited Dec 16, 2024).

²¹ Shaun Dixon, *The New Paradigm of Rehabilitation: A Meta-Analysis of the Effectiveness of Incarceration-Based Rehabilitation in Regards to Recidivism Reduction.*, 2013, <http://ir.library.louisville.edu/etd/357>(last visited Dec 16, 2024).

1. **Retribution:** According to the idea of retribution, punishment should be in proportion to the severity of the offense and the offender's moral obligation. It attempts to balance the scales of justice by imposing a penalty based on the harm inflicted.
2. **Deterrence:** The goal of general deterrence is to prevent people from engaging in crime in society as a whole by demonstrating the consequences of criminal conduct. It conveys the message that breaching the law will not be tolerated.
3. **Incapacitation:** It is based on the premise that certain offenders constitute a threat to society and must be isolated from the community in order to prevent them from committing other crimes. In most cases, incapacitation is achieved by imprisonment or confinement.
4. **Restitution and Compensation:** Offenders may be ordered to recompense the victims to compensate them for the harm caused by the crime. This idea strives to provide justice for the victims and hold perpetrators accountable for their crimes.

8.2 Types of punishment with reference to Sec.53 BNS:

The Bhartiya Nyaya Sanhita establishes the legal basis for punishment in India. Section 53 of the BNS²² deals with punishment and its types.

The following are the types of punishments:

1. Death Sentence:

The death penalty is one of the most severe forms of punishment under the Bhartiya Nyaya Sanhita; it entails judicial killing or taking the accused's life as a form of retribution.

The following are some of the offenses punishable by death:

- criminal conspiracy
- murder
- waging, attempting, or abetting war against the government of India
- threatening or inducing any person to give false evidence
- abetment of suicide by a minor or an insane person or intoxicated person

In the *State of Tamil Nadu v. Nalini*,²³ 26 people accused of conspiring to kill India's former Prime Minister Rajiv Gandhi were sentenced to the death penalty by the apex

²² Bhartiya Nyaya Sanhita, 2023, §53, India.

²³ State of Tamil Nadu v. Nalini, (1999) 5 SCC 253 (India).

court. Gradually, the principle that ‘the death sentence ought to be pronounced only for punishing severe criminal acts developed as a result of judicial pronouncements, primarily the following case,

In *Bachchan Singh V. State of Punjab*, the Bench opined that "a genuine and abiding concern for the dignity of human life presupposes resistance to taking a life through the instrumentality of the law."²⁴

That “death” should be a punishment only in the most extreme of instances, when the other choice is absolutely ruled out became the principle to be followed. In this way, the 'rarest of rare' principle was developed.

2. Imprisonment for life

Under this punishment, a sentence of imprisonment runs for the remainder of a convict's natural life until mitigated or remitted by the relevant authorities. It was held in the case of *KM Nanavati vs the State of Maharashtra that such imprisonment is synonymous to or falls under “rigorous imprisonment”*.²⁵

3. Imprisonment with two descriptions – Rigorous (Hard labour), Simple Labour

Imprisonment under IPC is of two types- rigorous and simple. The convicts under rigorous punishment are subjected to arduous tasks, including building work, excavating the soil, and collecting and chopping wood which directly involves them in "hard labour". Under the latter, however, the prisoner is simply imprisoned and not forced to labour.²⁶

The Honourable High Court of Gujarat held that when rigorous imprisonment is accompanied by hard labour, these prisoners should receive wages for the work since it is their right, and must be paid in order to uphold the dignity of prisoners.²⁷

4. Forfeiture of property

It is a punishment only for three offenses under BNS.

²⁴ *Bachchan Singh v. State of Punjab*, (1980) 2 SCC 684, ¶ 8, at 688 (India).

²⁵ *K.M. Nanavati v. State of Maharashtra*, (1962) AIR 605, 1962 SCR Supl. (1) 567, ¶ 13, at 570 (India).

²⁶ Shyam Prakash Pandey, *Kinds of Punishment under Indian Penal Code: A Critical Evaluation and Need for Reform*, 4.

²⁷ *State of Gujarat v. Hon'ble High Court of Gujarat*, (1998) 7 SCC 392, ¶ 10, at 396 (India).

- in cases where a person commits destruction or prepares to do the same against the Indian government.
- if one receives any property taken in war commission.
- if any public servant unlawfully buys or purchases property in his or another's name.

5. Fine

Fine is imposed as a punishment on a convict as an alternative penalty for some actions and as a secondary punishment for some offenses. It was decided by the court in *Shantilal v State of Madhya Pradesh* that the amount of the fine should at all times be congruent to the seriousness or gravity of the offense and should not be excessive.

8.3 Critique and ethical dilemma associated with punishment

Criticism of Punishment under Criminal Law is multifaceted in the sense that many thinkers and philosophers have pointed out the following loopholes to the idea of “punishment” or retribution:

It is contended that punitive measures like imprisonment may not always successfully prevent criminal behaviour. According to research, the certainty and severity of punishment have limited effects in reducing crime, particularly for those who have underlying social, economic, or psychological factors that have led to their criminal behaviour.

Punishment fails to address the root causes of criminal activity, resulting in high recidivism or re-offending. Trends have shown that jail conditions promote the growth of criminal networks and make reintegration into society more difficult.

It is expensive to maintain a punitive criminal justice system, including the construction and maintenance of prisons. It would be a more effective ideal to spend on the prevention of crime, education, and rehabilitation programmes which address the root causes of crime.

Punishment may violate people's human rights, such as the right to be free of brutal and excessive punishment. Overcrowded jails, inadequate facilities, and the use of solitary confinement are all viewed as breaches of the Human Rights of the convicts.

Punitive methods frequently fail to take into account the individual circumstances and

requirements of each offender. A universal approach to punishment may be ineffective in dealing with the wide diversity of criminal behaviour and conduct.

9. Comparative Analysis

9.1 Effectiveness of Rehabilitation vs. punishment in the criminal justice system

In criminal law, the effectiveness of punishment seems to be questionable. While punitive measures such as imprisonment help to punish criminals and give victims a feeling of justice, they still encounter considerable challenges. Overcrowding in jails, a delayed court system, and excessive use of imprisonment for nonviolent offenses have all led to an environment in which punishment alone may not always get the desired results. Furthermore, the possibility of criminals being even more radicalized or hardened in a harsh prison environment worsens the problem of recidivism. As a result, a punitive strategy may fail in effectively decreasing crime rates and addressing the underlying reasons of criminal activity if not prudently managed and complemented by other necessary measures.

On the other hand, initiatives of Rehabilitation have shown great potential, particularly for non-violent criminals and those with underlying difficulties such as addiction and mental health issues. Skills development, vocational training, and counseling programs have helped reintegrate people into society and lowered recidivism rates. However, limited resources, a lack of specialized programmes, and offenders' desire to actively participate in their own recovery have an impact on the success of rehabilitation initiatives.

Striking a balance between punishment and rehabilitation that is suited to the unique circumstances of each case is an ongoing challenge in India's criminal justice system and it requires regular evaluation and reform.

9.2 Position in India

Punishment is not a new concept in India. Manusmriti, or the Code of Manu, deals extensively with the subject of punishment. According to Muslim law, the Holy Quran contains punishment for a number of sins. During British rule, the Indian Penal Code was adopted in 1860 and still regulates punishment today. It has been noted that the prospects for punishment in India are quite restricted. Section 53 of the erstwhile Indian Penal Code, now, BNS, specifies five types of punishment, imprisonment being the most common form.

Ratanlal and Dhirajlal have opined that penal measures in the Indian Penal Code have now become somewhat archaic and need reassessment.²⁸ Provisions should be intended to persuade a convict that a normal and free life is preferable to a free prison. The rehabilitation part of the criminal justice system should be given due consideration.

The institutional mechanism for imprisonment is on the verge of breaking down due to the challenges of accommodation, food, clothing, health services, inadequate personnel, rehabilitation, and reintegration. Prisons are overcrowded due to an increase in prison population, while the cost of maintaining the prisoners is rising.

V.R. Krishna Iyer, J. observed in *Mohammad Giasuddin v. State of Andhra Pradesh*, highlighting the reformatory aspect of punishment as well as the mode of imprisonment, that rehabilitation should be the primary goal of the penal procedure and that every effort should be made to bring out the ideal person out of a convict.²⁹

However, the reformatory side is given slightly more weight in modern civilized civilizations. The modern community has a primary interest in the rehabilitation of the offender as a means of special defence, and hence an empathetic approach should prevail in our criminal justice system.

10. Ethical and moral considerations

There are a number of grounds for punishment, each with its own set of consequences. However, while punishment is morally legitimate in a world of equality and justice, it cannot be justified in the world as it currently exists. Criminals usually face severe social and psychological disadvantages, and their moral agency suffers as a result.

Apart from the factors influencing offenders' moral competency, the current power inequalities within the criminal justice system make it very difficult to engage in any system of punishment that is fair and respectful of offenders' basic human rights. It is true that the punishment practises evident in the criminal justice system are based on ethical assumptions, and it therefore makes sense to critically analyse their validity.

²⁸ Ratanlal & Dhirajlal, *The Indian Penal Code* 34th ed. 2014, at 123 (LexisNexis 2014).

²⁹ *Mohammad Giasuddin v. State of Andhra Pradesh*, (1977) 3 SCC 287, ¶ 3 (India).

10.1 Balancing the rights of victims and offenders

The present-day court system uses the symbol of scales of justice to depict the balance of truth and fairness. It is shown as being carried by Lady Justice, the Roman goddess of justice. Her sword represents the power of justice. The use of a blindfold by Lady Justice prompted the idea of “justice is blind.”³⁰ The scales lean to one side based on the facts and arguments offered, with the Lady Justice in charge of balancing the two to reach a reasonable and fair judgment.

It is very important to consider the concepts of punishment and rehabilitation in criminal justice while keeping in mind this aspect of balancing the rights of both the offender and the victim without overriding any of the provisions enshrined in the books of law.

Victims have the right to be heard, informed, and treated with respect and fairness. Punishment can serve as revenge, giving victims a sense of closure and justice. It can also function as a deterrent to future criminal activity. Victim-centered programmes, such as victim impact statements and rehabilitation activities, improve the lives of victims by providing options for restitution and reconciliation.

Offenders are also entitled to rights, such as the right to a fair trial, the avoidance of cruel and excessive punishment, and the opportunity of reintegration into society. Recognizing that many criminals have underlying difficulties, such as addiction or mental health disorders, rehabilitation aims to address these issues in order to avoid future criminal behaviour. Criminals must be treated with dignity even when they are being punished, and they must be given resources that will assist them in reintegrating into society as law-abiding citizens.

Studying the specific circumstances of each case is one way to balance the rights of victims and offenders. Non-violent offenders, for example, or those with a history of abuse, may benefit more from rehabilitation than punitive measures. Restorative justice can act as a platform for victims to express their emotions and for criminals to accept responsibility for their actions and apologize. This method respects both parties' rights and needs.³¹ To achieve

³⁰ RECOGNIZING AND BALANCING THE RIGHTS OF THE VICTIMS WITHIN THE INDIAN JUSTICE SYSTEM., (Oct. 30, 2019), <https://lexinsight.wordpress.com/2019/10/30/recognizing-and-balancing-the-rights-of-the-victims-within-the-indian-justice-system/> (last visited Dec 16, 2024).

³¹ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, OHCHR, <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse> (last visited Dec 16, 2024).

a balance between the rights of both parties, Laws and regulations need to be brought in that deal with victim compensation, support services, offender rehabilitation, and monitoring.

Victim rights and rehabilitative efforts are becoming increasingly important in the Indian setting. Using victim impact statements and emphasizing restorative practices are steps towards achieving a better balance of victim and offender rights. To achieve this balance, however, the legal community, legislators, and civil society must work together to ensure that both the rights of victims and offenders are recognized and addressed within the criminal justice system.

11. Conclusion

Finally, the critical study of rehabilitation vs. punishment in criminal law highlights the complexity and diversity of the criminal justice system. This research looks at the relationship of two conflicting techniques, each with its own set of advantages and disadvantages. It is clear that neither rehabilitation nor punishment can be viewed as a standalone or exclusive solution to criminal activity. Instead, the effectiveness is influenced by a number of external factors, such as the nature of the offence, the offender's past, social norms, and the availability of resources.

According to the research, when rehabilitation is developed to address the root causes of criminal conduct, it has the potential to reduce recidivism among criminals. Individuals can break the cycle of criminality by treating issues such as addiction, mental illness, and a lack of education, increasing their chances of reintegration into society. However, the success rate of rehabilitation schemes in India continues to depend on the availability of specialised programmes, adequate funding, and offenders' active participation in their recovery.

The punitive approach, on the other hand, encounters its own set of problems, although it acts as a deterrent and provides victims with a sense of justice. Misuse of imprisonment, particularly for nonviolent offences, has led to overpopulation in prisons and increased re-entry issues. Furthermore, punishment has been criticised for failing to address the underlying causes of criminal behaviour.

The research highlights the importance of achieving a balance between victim and offender rights within the criminal justice system. Victim-centered methods and restorative justice practises have shown hope in empowering victims and facilitating victim-offender

reconciliation.

This critical study shows that achieving the goal of a balanced and effective ecosystem in criminal justice requires careful thought, adaptations, and a firm commitment to the principles of justice and rehabilitation for all. Finally, establishing a just and equitable criminal justice system in India is not only an essential goal, but also a shared responsibility.

