

# Reformative Theory Of Punishment: A Path Towards Rehabilitation And Social Reintegration – By Walking On Path Of Spirituality.

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## Abstract:

The reformative theory of punishment is an alternative approach to criminal justice that emphasizes rehabilitation and social reintegration rather than retribution and incapacitation. This theory condemns every possible Kinds of corporate punishment, As given under [Ratan Lal vs State of Rajasthan \[2007\]](#). This theory worked great when applied practically for the correction of juvenile. And the first-time criminals but it is not affected for the recidivist. It is completely opposite from the deterrent theory of punishment, where it is believed that by giving certain amount of pain, The effect of punishment becomes more permanent. And it set as a reminder that the same crime, or the same mental. Intentions of doing criminal act will get affected. This research paper aims to explore the key principles and concepts underlying the reformative theory of punishment, its historical development, and its implications for contemporary criminal justice systems. Additionally, this paper will discuss the effectiveness and challenges associated with implementing reformative approaches, as well as provide examples of successful reformative programs.

**Keywords** - Reformative punishment, Shri Aurobindo, Rehabilitation, Restoration.

## Introduction:

The reformative theory of punishment challenges traditional punitive approaches to criminal justice by prioritizing the rehabilitation and reintegration of offenders into society. This theory emphasizes that one should not only punish but also reform individuals, enabling them to lead law-abiding lives upon release. By focusing on addressing the root causes of criminal behaviour, the reformative theory aims to reduce recidivism rates and promote a safer and more just society. While studying about the theory of punishment, it is obvious that one will know what crime is and for what the punishment is given. Punishment should be based on the type of criminal act. There is no hard and false rule to punish the accused on Strict rule of or isolated rule of punishment. We believe that human beings are capable of evolving and have great sense of adapting new senses when provided. It is evident there are lots of spiritual guidance, Spiritual gurus who visit the prison and they talk with the prisoners. And it is remarkable to see that most of the time, The habitual offenders have accepted that they had done something wrong, and they want to leave a healthy and a respectable life in their society. Which is the essence of reformative theory of punishment And it is the future of punishment. Humans are made up of sensors, there are made up of intellectual Brain they're capable of thinking they are capable of sensing, They are capable of feeling. Very brutal and hard punishment makes that person's mind, body and heart more strong They become more hard They don't feel, they don't sense and they don't think before doing any crime. And that's how they become a recidivist That's how they become A habitual offending. We must understand that the future of punishment is hidden in the reformative theory of punishment. And this research Is an analysis of why we need reformative idea in a practical approach In more wide and uniform, universally acceptable mode.

### **Historical Development: Sri Aurobindo A Practical example....**

The reformatory theory of punishment traces its roots back to the Enlightenment era, where philosophers such as Cesare Beccaria and Jeremy Bentham advocated for the humane treatment of offenders and the use of punishment as a means of preventing future crimes. This theory gained further prominence during the 19th and 20th centuries with the emergence of penitentiaries and the introduction of various rehabilitation programs. I would like to take the attention towards the great Sri Aurobindo Who was arrested on 2<sup>nd</sup> may 1908 under the charge of conspiracy. And he spent one whole year in Alipore's jail, while the British government Try to implicate him in various revolutionary activities. He was also kept in the solitary confinement for certain period While he was in jail, he started doing yoga and Inclined his idea with the acquiring knowledge of spiritual forces and energy in divine guidance for his work in life. And slowly, the inner spiritual life and the realisation which had continually been increasing in magnitude and universality. Which assumed a larger place, took him up entirely And his work become a part and result of it In short, he was kept in solitary confinement. And he took one book with him, which is the Bhagavat Geeta And he started reading it and analysing it And applying it And the person who came out from the prison was different than the person who was put in jail. He was completely reformed. And that is the meaning of reformation What I feel.

Reformation is a term which is used in a very simple way which means. Rebuilding something, Or constructing something by destroying that was already there. It is a discovery of a new being. It is reforming. A much better, And socially accepted version of something. What Sri Aurobindo did inside the jail He was completely reformed and that is the meaning of reformation. Which we see even today as lots of examples, We can find out when...Shri Shri Ravi Shankar, He used to go to prison or the Om Shanti groups They go to prison and they do their sessions with the prisoners about the Importance of soul and the importance of karma that we do And that is how A soul is reformed.

### **Objectives of research**

I would like to draw the attention of readers towards the meaning of reformation When we use the term reformation, it is not that we are using for reforming or rebuilding a human body but here we are trying to reform the mental ability and the thinking capacity of a person We are dealing with the psychological aspect of a person, especially of a criminal, of a person who had done something wrong in the eyes of society. And that is why that person is not able to face the society or leave within the society. So what exactly in prison should be reformed? Is it the body that we are reforming? Or is it the soul that we are reforming in trying to make that person a much better soul, which is good for the society? My research is all about reforming the soul as Sri Aurobindo did, He was not a criminal and when he was kept in the solitary confinement, he came up with something remarkable. And he made a history. He said, I found God A person is saying that he found God inside a prison that is remarkable, and especially when the prison is controlled by the British. We all know how cruelly they were, But even in the atmosphere of cruelty, even when a person is not a criminal, but kept as a criminal inside a solitary confinement the soul reformed. Just because that person wanted to reform. What kind of reformation we are doing today to criminals inside the jail. Is it good for their spiritual growth? Is it good for their moral growth Is it good for their societal goal? Or is it just in the theory? Because we are still not aware of the word reformed We cannot reform a body, and it is not happening inside the jail that a person or the prisoner is reformed Physically but it is an attempt To reform that person's soul. And that is why spiritual gurus are sent inside the jail to teach them to guide them.

### **Methodology used in research**

This is an analytical study on basis of case study from past which detect that reformation is yet not effective in our society. With the help if case study and data analysis this research paper deal with reforming the reformatory theory of punishment.

### **Literature review**

Reformative theory had already been discussed by many theorist and even in Indian penal code theory of punishment, the study revolve around the practical aspect of Shri. Aurobindo that in a theory can become effective in practical essence. My study is collaboration of reformative theory and practical aspect of Shri Aurobindo's life, which in my knowledge was not done.

### **Key Principles of Reformative Theory:**

#### **Rehabilitation:**

The main goal of punishment is to change criminals by addressing the root reasons of their illegal behavior and giving them the knowledge, resources, and assistance they need to properly reintegrate into society.

#### **Individualization:**

Each offender should receive a punishment that is specific to their needs and circumstances, taking into account the fact that social background, age, and mental health can all have a big impact on an offender's criminal behaviour.

#### **Community Engagement:**

To give convicts continued support and chances to reintegrate into society, cooperation between the criminal justice system, neighbourhood associations, and support networks is essential to successful rehabilitation.

#### **Restorative Justice:**

This reformative paradigm promotes accountability and healing for both victims and offenders by emphasizing the repair of the harm caused by the offense through discussion, mediation, and restitution.

The effectiveness of reformative approaches has been a subject of debate and scrutiny. Proponents argue that emphasizing rehabilitation reduces recidivism rates, saves costs associated with long-term incarceration, and promotes a safer society. However, challenges exist, such as the difficulty in accurately assessing an individual's potential for rehabilitation, limited resources for comprehensive rehabilitation programs, and societal attitudes that prioritize punishment over reform.

In *Narotam Singh vs state of Punjab [1978]* S.C had view that reformative approach to punishment should be the object of criminal law, in order to promote rehabilitation without offending community conscience and to secure social justice

### **Reformative Programs**

After drawing attention to the poor living conditions of the nation's prisoners, K F Rustamji launched the first attempts at jail reform in the 1980s. After the emergency period, a lot of people with strong moral convictions filed Public Interest Litigations to demand better treatment for inmates and to voice their pain. The inmates were alerted to several rulings from historic instances, such as *Bhagalpur v. State of Bihar*, *Sunil Batra v. State of Bihar*, *Maneka Gandhi v. State of Bihar*, etc.

With the recommendations of several committees, including the Mullah Committee, Justice Krishna Iyer's committee on women inmates, and the BPR&D committee established following the ruling of the Several countries have implemented successful reformative programs that align with the principles of the reformative theory of punishment. For example, Norway's correctional system focuses on individualized treatment, vocational training, and community reintegration, resulting in low recidivism rates. Similarly, the "*Hawaii Opportunity Probation with Enforcement*" (HOPE) program in the United States combines swift and certain sanctions with intensive probation supervision, leading to reduced reoffending rates.

### **Finding**

1. The death penalty through the equal protection clause of the constitution. Since most murders are the same, only a small number of perpetrators are executed by hanging. Although certain individuals are exempt from the death penalty, others manage to avoid prison time even after a court ruling by receiving a pardon, commutation, etc. from the governor or the president.
2. Without appropriate and sufficient legislative guidance, Ss. 354(3) of the 1973 Code of Criminal

Procedures grants judges an excessive amount of discretionary power. 3. As the route to the 1977 Stoke Home Declaration passes through India. is dedicated to ending capital punishment.

The perspective of a penologist's response best characterizes the notion of punishment. Under the Gangoji Rao Salanke v. State lawsuit, it was resolved, [In 1993].

### **Analysis / Suggestion**

In India, Reformation is used by two way one by sending this spiritual gurus in the jail so that they can reform and guide the prisoners and help them to come out from the sins they have done. Second is, by using the discretionary power of the Supreme Court or of the president and the governors by releasing and relieving someone from capital punishment. It must be a concern that we're not using the reformatory theory practically, With more possible ways, We are very much limited. We believe that not giving capital punishment, or not giving physical punishment, is reformation. But it is not. We know that, Austin said law is command of the sovereign which is backed up by the sanction. So whenever there is a breach of law, punishment must be given But not all breach of law require a very hard punishment. And the human civilization should not only be limited to , but they should think beyond it. They should try to reform the base, the seed, They should psychologically enter into the mental aspect of a criminal, and try to understand why they committed a certain crime. In India Most of the criminals come from a very low background, from a very poor family, from slums area. These people are not well Psychologically developed And that is why it is hard to judge them on the basis of them being capable of committing a crime. But when it comes to the white collar criminals, they have the ability to think and to analyse what they are doing. And they know the consequences of it. But still, they do it. Using the same application of punishment to all is lack of Capacity And we must take some great example And if we desire to build a society where there will be less Crime ,there will be less Illegal or illicit activity Then the morals of the society should be high, that is, to stay when the morals of each individual will be high, lesser the crime will be So we must understand that a good society is only possible when there will be amalgamation of both Natural Law School and the analytical law school. We cannot follow any law made by the sovereign By closing our eyes, and just because we have written laws, we cannot forget our morals because morals are the laws of souls. And the soul is what is needed to be reformed.

### **Conclusion**

The reformatory theory of punishment offers a promising alternative to traditional punitive approaches by emphasizing rehabilitation, individualization, community engagement, and restorative justice. While challenges exist in implementing these approaches, successful reformatory programs demonstrate the potential for reducing recidivism rates and promoting a more just and rehabilitative criminal justice system. Further research and investment in evidence-based practices are necessary to fully realize the benefits of the reformatory theory of punishment. The spiritual reformation is actively going on in 65 countries and over 100 prisons have implemented the program in India, more than 800000 prison inmates have been transformed through these programs.

### **Reference**

1. Paranjape N.V (1996) "Criminology and penology". Prayagraj, Darbhanga castle, Central law publications (2022).
2. <https://timesofindia.indiatimes.com/>
3. Supreme Court News, Latest India Legal News, Supreme Court Updates, High Courts Updates, Judgments, Law Firms News, Law School News, Latest Legal News (livelaw.in)
4. shri Aurobindo Primary Works Set 12 vol. US Edition, Lotus Press, Twin Lakes, Wisconsin