

Necessities of Adopting Reformatory Theory of Punishment in Bangladesh: An Appraisal

Surina Tarzid*

Abstract

Crime is a behavior or action opposed to public policy, morals, religion, and etiquette that is punishable. Among the variety of theories of punishment, the reformatory one is the most human and accepted to the civilized society where the offender is treated as a patient, the offense is sickness and the theory will act to cure the patient of illness. A preference for reformatory theory with other theories of punishment is expressed here. This theory aims to rehabilitate the offender into society. The write-up addresses the necessities of reformatory theory and its impact and justification of punishment, referring to the present prison condition of Bangladesh. It focuses on the national and international instruments to ensure prison reformation and treat offenders humanly. Finally, some recommendations have been proposed to reform the present prison system of Bangladesh to implement the reformatory theory of punishment compared to developed states. Here, it has been tried to emphasize prison reformation to rectify the offender's character to make them an asset of any family, society, and country thus ultimately the crime of any society will reduce. On the other hand, the detention period of the offender will not be spoiled through mere detention.

Keywords: Prison, Rehabilitation, Reformatory theory, Crime, Punishment, Social justice.

"An eye for an eye will turn the whole world blind"- Mahatma Gandhi

1. Introduction

The above line by Mahatma Gandhi is the basis of reformatory theory. No man is born criminal, for various reasons such as age, gender, family factor, poverty, unemployment, inequality, and social control he may become a criminal. Being involved in a crime, the offender and his family, victim, and state are losers or have to suffer. But it does not mean that they will be deprived of their basic rights. It has been forgotten that prisoners are human beings and sometimes they lose their human identity. Under the present system of penal policy, we

*Surina Tarzid
Lecturer, Department of Law, Premier University
E-mail: surina.tarzid@gmail.com

just deter or confine them within four walls so that they are deprived of getting integrated into society ("The Daily Star", 2004). Most developed countries have changed their approach in case of applying the method of punishment where they emphasize the reformatory approach other than a deterrent, retributive, and preventive approach. States revised and restructured their penal policy and overall prison system to provide an opportunity to reform the character of the offender based on a reformatory approach (Paranjape, 2009). However, the paper does not deny that to ensure effective reformation, the help of other theories is needed i.e. restraining wrongdoer (incapacitation), deterrence, and reformation (Berman, 2006).

The reformatory approach as a concept that indicates that the offenders who acknowledge their guilt may be sent to the reformation process to transform their mindset not to commit crime anymore. So that he may become a law-abiding citizen for the society instead of inflicting punishment at an early stage (Thakur, 2011). This theory opposes all kinds of physical punishments. Though there is a heated debate that this theory will act more resplendently for the reformation of the character of juveniles and the first-time offender, may fail to work for the chronic offender (Ratan Lal v. State of Rajasthan & Others, 2007). Punishment was inflicted in different ways, i.e., physical torture by which death will not occur, e.g. Flogging and Emasculation of limb for causing death, and mutilation (Vodro, 2011). Besides, there were some sorts of punishment such as branding, stocks, pillory, the ducking stool, burning at stock, quartering, discipline, and punishment, drowning, flaying alive boiling, and hanging. With the development of civilization this type of inhuman, degrading, and cruel punishment system had been abolished. For example, England abolished Branding in 1779, Pillory was abolished by France, England, and the USA in 1832, 1837, and 1905, whipping was abolished by England and USA in 1819 and 1952. In 1860 beheading had been transformed into hanging, England and USA prohibited public hanging. The USA last conducted the public hanging on 14 August 1936 (Vodro, 2011). Currently, people rely on the reformatory approach to punishment. Accordingly, this paper focuses on the actual scenario of the prison system of Bangladesh and discusses the necessities of prison rehabilitation to ensure social justice. At last, some recommendations have been given to overcome the difficulties or ensure the prisoners' rights by adopting the reformatory theory of punishment.

In dealing with these issues, this research is based on both primary and secondary sources. For this purpose, relevant International Instruments,

National Laws, case laws have been considered as primary sources. And official documents, books, journals, articles, online resources, documents of relevant international and non-governmental organizations, and other materials have been considered as secondary sources for proper analysis.

2. Philosophy of Reformative Theory of Punishment and its Necessities

Punishment is awarded to prevent, reduce and control crimes. Nonetheless, the approach of inflicting punishment has been considered changing from the last centuries. To reshape the law of crime with human touch and revise the cruel, inhuman, and degrading punishment towards human beings is today's claim (Edvin & Donald, 1985). The reformist employs the sanction as a means to mould the character of criminal. The reformatory approach is based on the simple idea that '*we must cure our criminals, not kill them*' (Fitzgerald, 2008). The core philosophy behind applying reformatory theory is to give the offender a new life whereby he may be privileged to reform his character (Hart, 1972). This theory is also known as rehabilitative sentencing. The Supreme Court of India has taken the following view: The prime concern of the punishment should be the reformatory theory of punishment to promote rehabilitation and secure social justice.

Moreover, in several cases, the Supreme Court of India held that prisoners never lose fundamental rights during the period of imprisonment, it's the deep-seated right of the prisoner as a human being to receive sympathized and kindhearted treatment from the authority (*Sunil Batra v. Delhi Administration*, 1980). The main myth of this theory is to concentrate on the offender rather than the offense and control the offender's behaviour to reduce the mentality to commit the crime and reform the legal offenders through individual treatment (karzon, 2008). If the authority concentrates on their behavior or provides them sufficient reformatory training through legal, religious, morals, and ethical teaching and institutionalized practical and vocational training they will be the resource of the society, and the law and order situation of any country will be contented for all. The reformatory theory aims to ensure justice towards the prisoner because the offender's detention, whether in jail or any other reformatory institution, is a punishment. Thus, mental pain which he suffers during the imprisonment is itself punishment (Paranjape, 2009).

A famous quotation carries the importance of adopting the reformatory approach in today's society, i.e. "*Every saint has a past; every sinner has a future*".

- V. R. Krishna Iyer, J. The basic principle of the reformatory theory is to offer a new life to the offender (Pillai, 2000). Efforts started in the year 1956 in the Indian Subcontinent (Hart, 1972). In a psychological sense, all offenders are treated as ill and they need to be cured. Accordingly, punishment will mean educating the offender. Recently, this theory has been the model and most acceptable where prisoners are treated as human beings. In the case of *Ramedeo Chuhan Alias Rajanth Chauhan v. State of Asam*, 2005 the court explicitly relied upon the theories of punishment and expressed that, though a limb for a limb is not acceptable in a civilized society, it is the truth that an offender cannot go unpunished. To inflict this punishment, the offender will be detained in a separate place to facilitate him an opportunity to realize his position. During that period if we flourish the humanity among them then the offender may reintegrate into the society as a normal man or we may rehabilitate the offender to the norms of the society because post-prison risk reliably is predicted based on in prison behavior (Richard, 2016). Suppose the authority can apply the reformatory theory effectively. In that case, not only the offender but also the state will be benefited because skilled and efficient manpower is the main resource of any country. It may be analyzed in three contexts that who will be the ultimate beneficiaries:

At first, the offender will be the ultimate gainer though he will confine himself in a different place. The deprivation of ordinary life is for the time being. Thus state provides him proper training to kill his criminal mind and the best use of his detention through productive training.

Secondly, to retaliate the vengeance of the victim, the victim may feel peace if the offender is punished. Ultimately, respect and reliability will increase, and all will obey the state policy.

Thirdly, the state will be benefited because the crime will be reduced from the state and the law and order situation will be under control. It is true that if anybody is engaged in a crime without any punishment for it, he may be desperate to commit another offense or crime. Through reformation, the offender may realize the responsibility for him, family, society, and state and may not be engaged with a crime in the future.

Thus, we can say that in many cases, punishment plays a vital role, especially in crime control and serving a message to the common people to make them refrain from committing whatsoever.

3. Impact of Crime and Justification of Punishment

The existence of society never is thought without crime which has been unavoidable from the ancient period. So, crime is an inseparable part of society. It is a looming demand of society to ensure punishment to maintain the social order. Here, law plays a decisive role in administering justice and punishment to ensure it. By inflicting punishment not only the society but also the victim, his family, and the offender or wrongdoer, people's businesses and communities are suffering a lot. So, imprisonment may be the sole penalty for the crime.

Because of crime, the direct loss is suffered by the victim who suffers in material goods, physical injuries, and is deprived of economic activities (Gray, 1979). A victim may suffer psychic losses that have nothing to do with fear, such as shame and self-doubt. A sense of lost self-worth may not just be in the victim's head, but may be shared by third parties—that is victims do not just lose self-esteem, but social esteem as well (Montada & Melvin, 1998).

In addition to the victim, the victim's family suffers the loss because virtually every individual victim stays within a network of family and friends, where someone relies upon him financially or emotionally. His incapacities from earning ultimately cause financial sufferings of his family (Kenworthy & Darely, 2015). As nobody will take responsibility for them, so victim's family also suffers from mental and economical loss.

Similar to victims, offenders are a part of extended networks of family and friends. Criminal punishment hurts not only offenders but those who rely on them financially and emotionally (Kathlee & Pastore, 1996). Spouses, children, and employers suffer a loss when the offender goes to jail (Karzon, 2009). Being an offender, he should be punished. During imprisonment, the offender is deprived of earning money by which his family has to suffer a lot.

Ultimately the state is looser, here the crime is treated as public wrong whereas the state treats it as against herself. Crime also exploits the law and order situation, peace, and tranquility of a state. On the other hand, the state has to pay a lot by providing resources for the detainee. Further, when a crime has occurred in a society, the society's inhabitants stay with fear (Karzon, 2009). It also reduces the property values, people will not be interested to invest or work in a crime zone, ultimately the state has to suffer a lot financially. Besides these, the impression of the state will be bad in the fellow partner country.

From the above analysis, it may be said that the punishment is justified. Here, Punishment is not the mere object to control the crime but just a weapon or tool to rectify the character of the offender to rehabilitate them in society (Uddin & Kader, 2010). Punishment is morally and empirically valid. The object of inflicting punishment is either to modify the behavior of offenders or to somehow compensate victims (Berman, 2006). One of the most important objects of criminal punishment is retributive where the victim can mitigate his retaliation or vengeance. If the state fails to reduce his vengeance, he may do another wrongful act to take revenge, increasing crime.

Finally, punishment is justified for the state to prevent the crime and maintain public peace and tranquility. If the state punishes wrongdoers, it will be an example for others and crime or offense against the state will be reduced because other offenders will be in awe to do such types of activities.

4. The Present Prison System in Bangladesh

The Present prison system in Bangladesh is very typical. The journey of Bangladesh Jail (BDJ) started after Independence in 1971 with four central jails, thirteen district jails, and forty-three sub-jails (Hoque, 2008). Then the sub-jails were converted into district jails in 1997 as the number of prisoners was increasing (Hoque, 2008). Currently, Bangladesh Jail operates with thirteen central jails and fifty-five district jails (Hoque, 2008). Besides, the government may declare any place as a jail for the time being by a gazette notification. The International Centre has reported for Prison Studies (hereinafter ICPR, 2021) that the total number of prisoners of Bangladesh is 88,084 in number, where the official capacity is 40,944. The US Department of State (Democracy, 2013) reported in its Country Report on Human Rights Practices that overcrowding, inadequate facilities, and lack of proper sanitation are the common phenomena in Bangladesh Jail (Democracy, 2013). *Odhikar* stated that these conditions contributed to custodial deaths (Democracy, 2013). In the present prison system, there is no effective and productive reformatory training for prisoners by which they will be able to go back into society as normal men. The prison authority can behave with them humanely and arrange psychological training including religious, morals, and ethical aspects so that they can realize themselves. In that case, the crime may be reduced from the society. In the present jail system, the prisoners are engaged with very typical work such as gardening, teaching, chowka (cook), cleaning latrine & stairs, canteen, carpeting, sewing, dressmaking, and sweeper section. Apart from these, there

is no scope for reformatory training and workshop on practical issues for them. Additionally, the Jail Code, 1864, deals with the jail administration and management of Bangladesh jail. Though it was formulated by colonial rulers and includes the Prisons Act, 1894, it regulates the management and training of prisoners. Similarly, the management of civil prisons is regulated by the Code of Civil Procedure. The Ministry of Home Affairs is mainly concerned to look after the overall prison management with the help of sergeants, guards, and other prison staff under the supervision of the superintendent of jails administering each prison (Hoque, 2008). The application of the reformatory approach will be more effective if it is possible to improve the criminal justice policies and sentencing policies & treatment towards the offender and on the care and treatment made available to vulnerable groups in the community.

5. The Rights Guaranteed for Prisoner's Reformation through Legislative Framework

Bangladesh is a party to the international instrument and thus obligated to implement the core international human rights treaties that guarantee the basic human rights for the prisoners under Article 25 of the Constitution of the Peoples Republic of Bangladesh (hereinafter BD Const 1972). Moreover, many national laws concern the rights of prisoners as well as the international community, also such as the Universal Declaration of Human Rights, 1948 (hereinafter UDHR, 1948) focuses on the rights to life, liberty, and security of a person (UDHR, 1948, Art. 3) and no one shall be subjected to torture or cruel treatment (UDHR, 1948, Art. 5) and International Covenant On Civil and Political Rights 1966 (hereinafter ICCPR, 1966) always concern about human safety, security, and dignity. Here the rights of the citizen shall be protected by law and the state is under an obligation to do so. So, no one shall be subjected to arbitrary arrest and detention, here the arrestee has the right to consult with lawyers and is entitled to a fair trial (ICCPR 1966, Art. 6 & 9). No one is allowed to take away the rights of other human beings and not allowed to do any degrading, inhuman, and cruel attitude to other human beings. In addition to these, The United Nations Standard Minimum Rules for the Treatment of Prisoners 1955 also focus on the suitable and adequate outfit, food of nutritious value, medical services, accommodation with natural air and light, clean and hygiene places and supply safe and clean water.

Recently United Nations Office on Drugs and Crime (hereinafter Crime, 2021) recommend improving the criminal justice system, including crime prevention and sentencing policies regarding care and treatment towards prisoners which

are mainly based on improvement and rationalization of criminal justice policies. So, prison reform is always requiring achieving sustainable impact. That's why UNODC declares a model prison must require prison management based on justice and humanity. It also suggests that prison reform is based on the premise of penal reform and capacity-building training for the people who are involved with prison criminals. There may be an arrangement of creative or purposeful activities such as education and vocational training that will help them for social integration rather than typical work. It also includes post-release support to former prisoners, to assist them with their social reintegration, thereby reducing their risk of re-offending.

UNODC has taken initiative and lent a hand to fellow countries to reform their prison policy based on core human rights principles, UN standards, and norms in crime prevention and criminal justice (Crime, 2021).

UNODC offers assistance in:

- There should be legal protection for prisoners.
- There may provide a space for alternatives to imprisonment and may reduce, sentences for preferred offenses; and
- There should facilitate an opportunity for social reintegration for the offender and ex-offenders (Crime, 2021).

Similarly, some national legislation deals with prisoners' rights and reformation. Here, the law always promotes that all are equal before the law and are entitled to get equal protection (BD Const, 1972, Art 27) and it is irrespective of whether prisoners are men or women, but it will be the main point to give equal protection to all irrespective of sex, race, and religion. Every human being has the right to lead a human life. That's why the law emphasizes the protection of the law (BD Const 1972, Art 31) to every prisoner and all are entitled to get the protection of the law. Therefore, the state must ensure protection for all. In that perspective, the Constitution of Bangladesh prohibits all kinds of torture, cruel, and inhuman treatment. So, no prisoners will be subjected to any sort of inhuman, degrading, and cruel punishment. From a broader perspective, every human being has the right to life which covers all the aspects of human life. That's why all the prisoners have the right to enjoy such benefits or privileges which are required for a human personality and the right to rehabilitation is required.

Alongside the Constitution of the Peoples Republic of Bangladesh, different statutory laws are concerned about the prisoners' rights and protecting the prisoners. Similarly, the Jail Code, 1864 is the most important code to ensure the prisoner's rights, which focus on the right to work, get sufficient food, proper treatment, and so on. Consequently, the authority is bound to ensure safe and secure living for prisoners inside the jail according to section 8 of the Prisons Act 1894 (hereinafter PA, 1894). This law also provides guidelines to the prison authority to ensure the safety and security of the prisoners (PA 1894, § 8). Hence, to live a human life, they need basic amenities such as bedding, clothing, medication, a balanced diet, and a healthy atmosphere. The Standard Minimum Rules for the Treatment of Prisoners, 1955 enjoins the authority of every prison to keep a bound register where the detailed particulars of the prisoners will be recorded according to their age, sex, qualifications, and so on (PA 1894, § 8). The authority is under an obligation to keep the different types of prisoners in different parts of the prison (PA 1894, § 8 & 9) such as convicted from untried, women from men, and young from adults (Kanak & Chowdhury, 2014). Again, the law concentrates on sufficient clothing and bedding for the prisoners (PA 1894, § 33) focusing on comfortable and seasonal dresses. Likewise, the food served to them must be enriched with nutritious value.

It is very important to mention that, the right to work (PA, 1894, § 35) is the fundamental right of every human being, and to lead a productive and valuable life work is required for all. The authority may engage the prisoners in productive work so that they not only earn but also pass the quality time. In addition to those laws, The Prisoner's Act, of 1900 deals with the transfer, transportation, and acquittal. Further, Bangladesh has entitled the Special Privileges for Convicted Women Act, 2006 to promote and encourage the rehabilitation of convicted prisoners which recommend granting parole and probation for specific periods for the women prisoners.

In 2018, the Social Welfare Ministry of the Government of the Peoples' Republic of Bangladesh published a Gazette named "Karagare Atok Shajaprapto Narider Bisesh Shobidha Bidhimala" (draft) 2018 (hereinafter NBSB, 2018). In that Gazette, the probation officer is authorized to prepare a list of convicted women imprisoned for more than 1 year to less than 10 years and another list who are convicted for more than 10 years (NBSB 2018, R 3). At the time of listing the socio-economic educational background, working experience and family background shall be recorded (NBSB 2018, R 5). Here, the authority is

authorized to manage suitable jobs and educational opportunities with recreation (NBSB 2018, R 16) and the authority may arrange vocational training courses such as block, batiks, knitting, haircutting, embroidery, knit wearing and computer operation, and so on. It is to be mentioned that government is also concerned about jail reformation to ensure the prisoner's rights. For this purpose, commissions were set up in 1957 and 1978. Unfortunately, it was very slow, indeed there was no reformation. Later on, The Munim Jail Reform Commission was formed and recommended reforms in 1980, which have yet to be implemented (Sultan, 2020). Furthermore, in 2002 a Ministerial Committee was formed to jail reforms, headed by the then state minister for Home Affairs. The committee held 13 meetings between 2002 and 2018. It made recommendations focusing on the appointment of a social welfare officer, with a background in psychology or sociology and also recommended for pathologists; radiologists, dentists, reduce imprisonment periods to one-third of the sentence, reduce by half the sentences of prisoners not convicted for major offenses and have to facilitate skill training in sewing, bamboo and can work for rehabilitating women prisoners. The committee also recommends increasing the prisoners' quantity and quality of food.

Very recently, Chief Justice of the Supreme Court of Bangladesh Syed Mahmud Hossain has directed the judges to apply the Probation of Offenders Ordinance, 1960 (Supreme Court of Bangladesh circular no-J 01/2019). It has been stated that probation will be the best means to decrease the pressure upon the prison and implement the corrective punishment policy based on a Reform Committee headed by Justice Imman Ali (Sultana, 2019). Later on, another promising and groundbreaking verdict was pronounced by Justice Zafar Ahmed, where the convict was allowed to stay with his family on probation with conditions that the convict must have to take care of his 75 years old mother and provide basic amenities including educational expenses to his children ("The Daily Noia Digonto", 2020). Similarly, in another bench of the Appellate Division of Supreme Court, Justice Iman Ali and Justice Abu Bakkar Siddique also approved the application of Probation of Offender Ordinance 1960 (Noor Mohammad vs Government and Or, s 2021).

Important to note that the person who has not been previously convicted and convicted of an offense punishable with imprisonment for not more than 2 years is entitled to enjoy the probation facility. According to section 4 of The Probation of Offenders Ordinance 1960 (hereinafter POO 1960), he has to enter

into a bond with or without sureties for not committing the offense and being of good behavior during such period) to enjoy this probation facility. Here, the Court has the power to direct an offender who is enjoying probation to pay compensation to the persons injured by the offense committed by the offender (POO 1960, § 6).

Though the law is concerned about the prisoners' rights, the reality is different. It is an unexpected truth that the prisoners are deprived of getting basic rights, they just lead a miserable life in prison. Here, the concept of reformation is unfamiliar not only to prisoners but also to prison authorities. It is to be mentioned that law covers the concept of reformation in a little bit but there is no specific direction and provision about the prison rehabilitation to apply the reformatory theory of punishment. However, some jail reform committees are working for prison reformation.

6. Rehabilitations Programs Initiated by some other States

Today the whole world is concerned about the prisoners' rights through rectifying their character to make the ordinary people in society. The reformatory justice services help offenders to find meaningful ways to lead a usual life and build relationships with communities. The need for prison reformation in many countries is the demand of time because the rate of imprisonment is increasing day by day. Some remarkable initiatives taken by the different states are stated below:

6.1 The United States of America:

Prison reform started in Philadelphia and Pennsylvania two centuries ago and worked to deal with prisoners more humanely to ensure a restorative correctional system. For this purpose, they brought changes to penal policies (Paranjape, 2009). The journey of the restorative correctional system started in 1780 and still, it is continuing. They adopted the systems such as 24-hour separation of each prisoner to provide psychological therapy with advocacy to realize his position, ex-offenders are provided with employment, housing, public welfare benefits, advocating and meeting with correction officials to promote reform. Prison society was established in 1845 which publishes *The Journal of Prison Discipline and Philanthropy* (Johnston, 2009). Additionally, it published a quarterly newsletter, *Correctional Forum*, and monthly newsletter, seminars and conferences. Prison society also provides services for prisoners, ex-offenders, and their families. Here they arrange reentry programs to

enable them to reintegrate into society (Rayart, 2015). The prison society also arranges programs to make them connected with family through virtual video conferencing.

6.2 The United Kingdom

The emergence of the humanitarian movement around the end of the 18th century directed towards the problem of better administration of justice. John Howard may be rightly called the prison reformation pioneer who emphasises the importance of religious, moral instruction and the utility of learning trades and crafts in prison (Qadri, 2011). Similarly, many aspects of prisoner welfare are specially considered such as health care including mental health, hygiene, sanitation, lighting, air, and so on. The health policy in prison is integrated with national health policy (Silvestri, 2013). Here the evening classes are arranged by the national offender management at every prison. The authority also addresses distance learning, vocational training, a well-equipped and rich library with a reading room and the prisoners may be engaged in purposeful work. Furthermore, rehabilitation programs have been introduced and continued to be implemented both inside and outside the prison, such as contact with the outside world to maintain and develop relationships as normal as possible. The prisoners were also allowed to spend some time outside the cells for social interaction. Here, the sentenced prisoners should be designed to enable them to lead a responsible crime-free life. For this purpose, social workers, psychologists, sociologists, and criminologists will act altogether. Recently, the program of restorative justice is started to integrate into mainstream criminal justice implementation

6.3 India

Prison in India was in terrible condition during the period of the East India Company. The Government appointed a committee in 1836, later on, many committees were appointed and various Acts were passed subsequently to improve jail conditions (Qadri, 2011). For this purpose, the correctional services were integrated, here the probation system was preferred to avoid pressure on prisons (Qadri, 2011). Here the government also has taken initiative to promote the condition of prisoners' rights such as accommodation, hygiene, sanitation, food, clothing, and medical facilities. Besides these, the state arranged well-organized training on proper job requirements to prepare the prisoners to enter into a job. Similarly, the government also emphasizes reformation of the offender's character through rehabilitation and offers educational facilities.

Consequently, many jails of India offered various courses such as BA, MBA, MA, and other post-graduation courses by IGNOU and their respective universities for hardcore criminals and women (Sood, 2016). In many jails with a view of imparting vocational training, a full-fledged computer training center has been established, and also training is provided in carpentry, fabric painting, weaving, making toys, stitching, and making embroidery items. There are also wage-earning and gratuity schemes. Recently, wearing Gandhi's cap by prisoners has been banned by the Government of Himachal Pradesh. The jail authority also arranges seminars to make them aware of their rights to health, sanitation, HIV/AIDS, and mental health (Sood, 2019).

In the present administration of criminal justice, the jail is being treated as a place for correction where reformation and rehabilitation of a prisoner are the aims of imprisonment. That's why most of the developed states are greatly concerned to take initiative to reform the prison.

7. Way Forward for Effective Reformation:

Being a criminal or offender he has to suffer a lot but he will not deprive himself of his human rights. Punishment is a weapon to protect society from reducing the occurrence of criminal behavior (Lars Moller, 2007). For establishing reformation of the prison system, the following recommendations may be considered.

a. At first, the Government has to immediately take the initiative to change the existing penal policy and amend the jail code 1864. The government can enact new laws by addressing the rehabilitation program for the prisons, which will reduce crime and help the offender reintegrate into society.

b. To achieve a sustainable and effective prison reformation it is necessary to encompass criminal justice institutions with the prison service, such as the judiciary and police service are closely related to the offender. Therefore, to establish the reformatory approach the government should train up the prison employee, judges, and prosecutors.

c. The main pillar of the reformatory approach is productive, creative, and practical work that will reduce the psychological burden on the convicts and prepare them for the future as manpower. To make the effective reformation the authority may introduce an institutional educational system and full-fledged vocational training system to rectify the character of the offender.

d. In every prison, there should be one or more psychologists (Lars Moller, 2007). The authority may arrange psychological training to reshape their mental through individual and group counseling to prisoners. For this purpose, the moral and legal education system can be introduced to apply the reformatory theory of punishment. Through legal education, the offender will be introduced to legal and illegal action, making them concerned about the consequences of criminal actions. By realizing own position, a person will be encouraged to accept voluntary reformation.

e. Parole and probation or open prison may be the most effective way to rectify the character of the offender. In this system, overcrowding may reduce to assist the offender to restore in the society.

f. There should be easy access of every organization or single person to know the condition of the prisoners or prison by taking prior permission. To apply the effective reformatory approach a full-fledged independent monitoring body is necessary.

g. Key figures of a country or the influential person of any community or country like actor, model, member of parliament, leading member and staff of the local government office, taxation authorities, industrial and commercial as well as labor and employment department, human rights activists, teachers, the religious head of every religion may be invited in the seminar to speak up to the prisoners to convey the message of the impact of crime. They can also provide a guideline regarding future life.

h. The Probation of Offenders Ordinance, 1960 had little to no application in the post-independence context for Bangladesh. The Bangladesh Supreme Court had issued a circular on February 12, 2019, with directives to the judges across the country to apply this law. The court must emphasize this Ordinance in the practical application.

Though it is too hard to take the initiative to implement the reformatory approach of punishment immediately in Bangladesh, it is not impossible. If the Government and non-Government organizations start to implement the above-mentioned recommendations it will not be difficult to overcome the problem and the rights of the prisoners will be upheld. Already Prime Minister Sheikh Hasina has given directions to the prison authority to engage the

prisoners in commercial production as a means of rehabilitation (“The Daily Star”, 2019). Accordingly, the Additional Inspector General of Prisons emphasizes innovative policies focusing on correctional facilities rather than the traditional prison structure in Bangladesh (“The Daily Star”, 2019).

8. Conclusion

‘The criminal may be described as a monster or be pictured as a hunted animal or as the helpless victim of brutality’, (Johnson, 1964). Over time the state has taken a lot of steps to promote the prisoners’ rights but the initiatives taken for the reformation of prisoners are so nominal. Though few jurists criticize that if the prison is to be a place of comfort, they will encourage committing the crime again and again to lead a comfortable life. Despite the criticism, time demands to reform the prison system and the character of prisoners not to repeat crime, so there is a need to concentrate on offender more than offense. Here, punishment can be used as a process not only to detain the offender but also to reform the character of the offender. Similarly, punishment is justified. This paper never claims to stop the punishment, but the period the offender will be detained is not to be misused through mere detention. For this purpose, effective reformation training, workshop, work facilities, counseling are necessary to change the mentality of the offender and make him an asset to society. Though the single way of punishment theory is natural or essential, we believe that carving the complex phenomenon of punishment is preferable. Yet, several steps have been taken to improve the conditions of prisons but much more is required to be done. Though it will be difficult to achieve prison reform to ensure human security, it will not be impossible. For this, the Government, Prison administration, NGO, and Civil Society may take initiatives to improve the present prison condition and ensure prison reformation. Though the Government has taken initiative through some projects and some committees to promote the welfare of the inmates and bring them back to be integrated into society. Optimistically, all concerns should consider prison rehabilitation as a moral commitment besides a legal obligation to uphold human rights and dignity.

References:

- Ahmed, M.A. (2019, January 31). Why Criminal Justice Reform is Must. *The Daily Star*, p. 16.
- Berman, M. N. (2006). Punishment and Justification. *U of Texas Law, Public Law Research Paper No.129*, 69. s

- Charles Sobraj v The Suptd, Centarl Jail, Tihar, AIR 1514(SCR,1978).
- Crime, U. N. (2021). United Nations. Retrieved from [www.unodc.org](https://www.unodc.org/unodc/en/justice-and-prison-reform/prison-reform-and-alternatives-to-imprisonment.HTML); <https://www.unodc.org/unodc/en/justice-and-prison-reform/prison-reform-and-alternatives-to-imprisonment.HTML>
- Democracy, B. O. (2013). Bangladesh 2013 Human Rights Report. Newyork: United States Department of State. Retrieved from: <https://2009-2017.state.gov/documents/organization/220600.pdf>
- Edvin & Donald. (1985). *Principles of Criminology*. Bombay: The Times of India Press
- Fitzgerald, P. J. (2008). *Salmond Jurisprudence*. Delhi: Universal Law Publishing Company.
- Garu, D. K. (1995). *Criminal law: case and materials*. New Delhi: Butterworths India.
- Gray, C. M. (1979). *The costs of crime*. Beverly Hills: Sage publications.
- Global Prison Trend 2018. Retrieved December 13, 2021, https://cdn.penalreform.org/wp-Content/uploads/2018/04/PRI_Global-Prison-Trends-2018_EN_WEB.pdf
- Hart, H. L. (1972). *Crime and Justices*. London: Radzinomics and Wolfgong.
- Hoque, D. M. (2008). *Under-Aged prison Inmates in Bangladesh*. Dhaka: Actionaid.
- ICPR. (2021). World Prison Brief data. Birkbeck: World Prison Brief. Retrieved from: <http://www.prisonstudies.org/country/bangladesh>
- Johnson, E. (1964). *Crime, Correction, and Society*. Illinois: The Dorsey Press.
- Johnston, N. (2009). Evolving Function. *The Prison Journal*, 10-34. Retrieved from <https://journals.sagepub.com/doi/10.1177/0032885508329761>
- Karzon, S. H. (2008). *Theoretical and Applied Criminology*. Dhaka: Poll and Elcop publication.
- Kader, B. U. (2010). *Oporad Bigganer Porichiti*. Dhaka: Kamrul Book House.
- Karzon, S. H. (2004, December 12). Prisoners' Rights in Bangladesh. *The Daily Star*, p. 13.
- Kenworthy, B., & Darely, J. M. (2005). What's wrong with harmless theories of punishment. *The Chicago-Kent Law Review*, 3(3), 179-181.
- Lars Møller, H. S. (2007). Health in prisons. Copenhagen: WHO Regional Office for Europe Retrieved from: https://www.euro.who.int/__data/assets/pdf_file/0009/99018/E90174.pdf
- Monir, G. (2020, November 17). Ekti Jogantokari Roy o Kara Somoskar. *The Daily Noa Digonto*, p.9.
- Montada, L., & Melvin. (1998). *Responses to victimizations and belief in a just world*. J. Learner
- Noor Mohammad v Government and Others, 1271/2017 (HCD 2021). (Yet not reported)
- Paranjape, N. V. (2009). *Criminology and Penology*. Allahabad: Central Law Publications.
- Pillai, P. S. (2000). *Criminal Law*. New Delhi: Butterworths India.
- Pastore, M. K. (1996). *Bureau of Justice Statistics*. Newyork: US Department of Justice.
- Qadri, S. M. (2011). *Criminology & Penology*. Lucknow: Eastern Book Company.
- Ratan Lal v. State Of Rajasthan & Others, CriLJ. 2467(SC 2007).

- Ramedeo Chuhan Alias Rajanth Chauhan v.State of Asam, 6 AILR 368(HC 2003).
- Richard, S. F. (2002). Limiting Retributivism: The Consensus Model of Criminal Punishment. *Journal of Public Law and Legal Theory*, 136-138.
- Rayart, J. D. (2015). Enough Is Enough: The Need for Prison Reform in the US. Springer, 213-228. Retrieved from https://link.springer.com/chapter/10.1057/9781137450999_13#citeas
- Sood, A. (2016). Prison Reforms In the Indian Prison System. Retrieved from [legalserviceindia.com: https://www.legalserviceindia.com/article/I174-Prison-Reforms-In-Indian-Prison-System.html](https://www.legalserviceindia.com/article/I174-Prison-Reforms-In-Indian-Prison-System.html).
- Sunil Batra v. Delhi Administration, AIR 764 (SC 1980).
- Sultan, M. T. (2020). Rights of Prisoners. Dhaka: Ain o Salish Kendra. Available at: <https://www.askbd.org/ask/rights-prisoners/>
- Supreme Court of Bangladesh Circular No- J 01/2019 on February 2019. Retrieved from <http://www.supremecourt.govt.bd/web>
- Sultana, J. (2019, February 19). The long-forgotten law of probation of offenders. *The Daily Star*, p. 18.
- Silvestri, A. (2013). Prison conditions in Rome: Antigone Edizioni. Retrieved from <https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/Prison%20conditions%20in%20the%20UK.pdf>
- Thakur, R. S. (2011). An Eye for an Eye Will Turn the Whole World Blind - In Special Context to Reformatory Theory of Punishment. SSRN. Retrieved from SSRN: <https://ssrn.com/abstract=1955438> or <http://dx.doi.org/10.2139/ssrn.1955438>
- The Universal Declaration of Human Rights 1948, General Assembly Resolution 217A. Retrieved from= <https://www.un.org/en/universal-declaration-human-rights/>
- The International Covenant on Civil and Political Rights 1966, General Assembly Resolution 2200A (XXI). Available from <https://www.ohchr.org/en/professional-interest/pages/ccpr>
- The Constitution of the Peoples Republic of Bangladesh, P.O No 76 of 1972. Retrieved from <http://bdlaws.minlaw.gov.bd/act-367.html>
- The Prisons Act. No. IX (1894). Retrieved from <https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/a24d1cf3344e99934125673e00508142/2b5>.
- The Prisoners Act, No.III (1900). Retrieved from <http://bdlaws.minlaw.gov.bd/act-80.html>
- Vodra, S. (2011, July 31). Mrithodonder Etihad. *Advocate Nurussafa Talukdar Samrok Grontho*, pp. 101-103.