

Rehabilitation and Reintegration - A concept study for Assam

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Introduction and background

The basic concept regarding jail is that it is an institution where the offenders of the law and one who is considered unsafe for the society is sent for a period of time. The major purpose of such correctional homes is not only to detain the offenders but also to provide them with proper rehabilitation and make them ready to be reintegrated into the society.

It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.

(Nelson Mandela)

This has been quoted by the United Nations Office on Drugs and Crimes in the starting of the United Nations Standard Minimum Rules for the Treatment of Prisoners, or which is famously known as the Nelson Mandela Rules (The United Nations Standard Minimum Rules for the Treatment of Prisoners, 2015) The United Nations named it the Nelson Mandela Rules to pay homage to Nelson Mandela who spent 27 years in jail, and they extensively discuss the importance of rehabilitation and reintegration. For example, Rule 4 states that to fulfill the objective of imprisonment, i.e.

protecting society against crime and to reducing the recidivism rate, reintegration is very important. Similarly, Rule 90 states that it is the duty of the society to provide rehabilitation to the inmates.

One of the primary aims of the criminal justice system has been rehabilitation and reintegration. (Penal Reform International, 2018). Rehabilitation is to be understood as to those strategies, measures, and programs, which are provided both inside and outside the prison, and are used in the period of incarceration for preparing the inmate for going back to the society and resettling (Gisler, Pruin, et al, 2018). Reintegration encompasses those concepts, programs and structures in psychological, legal, moral and social dimensions that take place after release from prison and aim at "de-labelling" the former prisoner toward a "normal citizen" (McNeill, Fergus, et al, 2012).

Rehabilitation and reintegration have been considered an integral part of the criminal justice system, but during the mid-1970s, the importance of rehabilitation and reintegration diminished and it was considered to be a waste of resources (McNeill, Fergus, et al, 2012).

This was due to the development of the "nothing works doctrine" by Robert Martinson in 1974 in his article "What Works?" This had huge impact upon the policies relating to prison and less or no importance was given to rehabilitation and reintegration (Michelle S Phelps, 2011). It was because "nothing works" doctrine stated that rehabilitation and reintegration does not result in the decline of the recidivism rate (Martinson, 1974).

However, after a course of time, with further research being done in this field, the perception revolving around rehabilitation and reintegration changed and is now being considered as a very important aspect in the criminal justice system (Ubah, Robinson, 2003 and MacKenzie, 2006). In recent times rehabilitation and reintegration has been widely recognized and has been given importance. For instance, the Supreme Court of India, in the case of Sunil Batra v Delhi Administration, (1980 AIR 1579) stated that the correctional homes should give importance to rehabilitation programs and

stated that the Prison Act should also give importance to rehabilitation.

Within India, there has been a minimal level of research regarding rehabilitation and reintegration and their application to the current prison system. That said, various states have implemented many initiatives and programs to rehabilitate and reintegrate the inmates. However, further research is needed to ascertain the objectives that these initiatives fulfill and analyse the effectiveness of such rehabilitation programs. Measuring and analyzing the effectiveness is an important missing aspect of research into Indian correctional homes (Miceli, 2009). The study goes on to recommend the Rhode Island Department of Corrections tool as an effective way to measure the impact of rehabilitation measures.

According to the (Ministry of Home Affairs Government of India New Delhi, (MHA, New Delhi, 2003), it is the duty of the State to provide rehabilitation to the inmates. If looked into the context of Assam, the researcher could not find any study on the rehabilitation and reintegration initiatives in context to the prisons in Assam.

The researcher intends to study the various rehabilitation and reintegration programs and initiatives that other states have implemented from the perspective of their application in Assam. The researcher also intends to explore the literatures concerning rehabilitation and reintegration and see if there's a need of having a proper framework for rehabilitation and reintegration for the jails in India. What are the various practices all over the world in regards to rehabilitation and reintegration and should jails in India adopt such frameworks for achieving the goals of rehabilitation and reintegration?

Theories of Punishment

Punishment can be defined as - "any pain, penalty, suffering, or confinement inflicted upon a person by the authority of the law and the judgment and sentence of a court, for some crime or offence committed by him, or for his omission of a duty enjoined by law" (Black, 1891, p. 1234). There are many theories of

punishment, which can be broadly classified as non-utilitarian and utilitarian. The main difference between these two broad classifications is the focus and objectives that these theories strive to achieve. While non-utilitarian theories of punishment are backward looking, i.e. interested in the past acts and the mental states; utilitarian theory has its focus on the future and future consequences from punishment (Goudappanava, 2013).

The major theory under non-utilitarian is retributive theory, which focuses on punishing the offender for the wrongs. Retributive theory puts its focus on the wrongdoers rather than the victim. (Maki, 2005) The utilitarian theory of punishment can be further classified as preventive, compensatory, deterrent, or reformative. Rehabilitation theory of punishment is one of the most prominent theories in the current prison practices. (Maki, 2005)

The rehabilitation theory of punishment stresses preventing future crime by providing opportunities to the offenders in the jail. These opportunities include training on education, skill building, more family time for the inmates, etc. Rehabilitation theory holds that an individual is not born as a criminal but is one moulded by one's environment (Goudappanava, 2013). This theory holds the prison system and the society responsible for rehabilitating the offender, and focuses on reducing the recidivism rate. (Goudappanava, 2013). With the development of the concept of the welfare state, the focus has shifted from retributive theory to rehabilitation theory. (Bernard, Hass, et al, 2017)

Economic and Social Rehabilitation

Economic rehabilitation refers to providing the offenders with initiatives, trainings, and skill development intended to result in a better economic condition once the offender is released back into society. (Reitz, 2015) Sometimes this type of rehabilitation also implies that prisons would provide the offenders with some economic support for a given period of time, such as during the period of parole.

Many prison systems across the world provide economic rehabilitation, which includes providing employment, or letters of recommendation which would help in securing a source of income for the offender. As has been noted earlier, lack of employment opportunities available to the offenders can result in re-offense, contributing to the recidivism rate. Economic rehabilitation is one of the essential practices which aims at reducing the recidivism rate. (Reitz, 2015)

Social rehabilitation includes initiatives and programs that ease the transition into the society once a prison term has been completed. It has been observed that it is difficult for offenders to be accepted by their families or wider social groups. Many times, due to the non-acceptance from the society or the family or both, the offender reoffends and this leads to the increase in the recidivism rate. Hence, prison systems with social rehabilitative programs may also decrease recidivism rates. (United Nations Office on Drugs and Crimes, 2018).

There was no scholarly article found by the author to state the difference between the social and economic rehabilitation. But through looking into the various rehabilitation practices around the world, it can be determined that the major difference between these two types of rehabilitation is the implementation approach. Economic rehabilitation are designed to assist the inmates to provide for themselves after they have completed their sentences, whereas social rehabilitation focuses on preparing inmates prior to re-entry. The social rehabilitation also focuses on the mental health and the well-being of the inmates and stresses on providing ways to make the families more accessible to the inmates, so that the reintegration into the society is a smooth process. Many countries seek balance by implementing both the social and economic rehabilitation practices into the prison system, which will be discussed next.

Countries Practicing Economic Rehabilitation

Thailand is one of the countries which has started providing economic rehabilitation to its offenders. Many of their rehabilitative programs have been focused on the providing economic rehabilitation to the women offenders. *The Lila Thai Massage Ex - Inmate and Skill Development Centre* is one such initiative. This program provides employment to the women inmates and the women inmates enrolled in this program are reported to earn more than the average income of a Thai citizen. It has been reported that women inmates through this program earn an equivalent of USA \$950 per month, which is double than the average of the average income of a Thai citizen (Sagredo, Sa-ardyen, 2018). The Thai prison system has also started providing training to the inmates regarding how to establish their own small and medium scale enterprise. In 2018, the Thai prison system launched yet another one of its economic rehabilitation programs, *Model Prison Plus (+)*, which aims at equipping the inmates with financial and debt knowledge.

Jamaica has one of the highest youth crime rates and youth unemployment rates (Wong and Ramakrishnan, 2017). The Jamaican youth's involvement in the crime is considered as a result of many factors, which include unemployment, poor educational opportunities, feeling of being excluded from the government initiatives (Caribbean Human Development Report, 2012). The UN Development Program has concluded that youth violence is more than the security concerns. It is a major human development problem. Jamaica too has been providing such economic rehabilitative programs. One of the major chunks on prison population in Jamaica is of youth. *A New Path* is an initiative of the Jamaican government along with the Organization of the American States. (OAS), which makes rehabilitation and reintegration programs accessible to the youths. Under this initiative, the youth inmates are offered training on marketing and technical skills. This program also provides assistance to the youth once he/she is out of the jail by assisting them in accessing educational and employment opportunities. Under this project the young offenders are trained on marketable technical skills, life skills and also provided with individual psychological support to

ensure that the inmates have a successful reintegration back to the society (Penal Reform International, 2018). This project also aims at providing assistance to the inmates even after they are released. The project aims at providing inmates assistance in accessing educational, vocational, internship and employment opportunities. This project has resulted in assisting many of the youth offenders and have succeeded in providing them with proper rehabilitation and reintegration initiatives. (Jamaica Observer, 2018).

While Kenya focuses on community services as a way of rehabilitating its offenders, it also aims at empowering them economically, so that the inmate can support himself and his family. In the *Kenya Project, 2014-16*, economic empowerment opportunities were given to the offenders who had completed their community services. Economic conditions have been a major reason for increase in the crime rates in Kenya and a key challenge to overcome in the rehabilitation of the offender (Penal Reform International, 2018).

The Singaporean prison system has tried to implement the use of technology to fulfil its economic rehabilitation goals. They have given prisoners access to tablets which can be used to access online courses for employment and skill building. (Penal Reform International, 2018).

Indian prisons also have started to providing economic rehabilitation to its inmates. The Andhra Pradesh Prisons have started encouraging the inmates to pursue educational courses through Open Universities and have started providing them with skill building trainings such as plumbing and masonry to make them capable to provide for themselves once they have served their sentence. For a successful reintegration of the inmates into the society the prisons in Andhra Pradesh have set up industrial units in the prison itself to train the inmates. (Prison Statistics India, 2014). The Government of Andhra Pradesh have also partnered with various companies to allow the prisoners to work there and in addition to all these practices the prison system in Andhra Pradesh has also started imparting computer training to the inmates.

Another Indian state which has partnered with private companies to provide the inmates with employment opportunities is the State of Goa. The Goa prison administration has partnered with Himalayan Drug Company for plantation of medical plants to deal with the employment issue faced by inmates (United News of India, 2015).

The State of Gujarat too has started providing industrial training to its inmates. The prisons in Gujarat has started providing with the inmates with various training - cum production schemes for improving their skills in the industry field (Ministry of Home Affairs, 2010)

The jails in the State of Manipur too have initiated economic rehabilitation programs for its inmates. For instance, the jails in Manipur have started collaborating with the Indira Gandhi National Open University (IGNOU) centres to let the inmates enrol in their programs to undertake training courses. The prison system in Manipur has also started encouraging the inmates to appear in various examinations conducted by Board of Secondary Education, Manipur (BSME) and Council of Higher Secondary Education, Manipur (COHSEM) (Prison Statistic India, 2014). Similar process has also been initiated in the correctional homes of Assam.

Countries Practicing Social Rehabilitation

Jamaica under its initiative with the OSA, alongside its economic rehabilitation also has undertaken various social rehabilitation programs. Under its program, '*A New Path*', youths are also provided with psychosocial support services to ensure a smooth reintegration back to the society. (Penal Reform International, 2018).

Costa Rica has initiated some major social rehabilitation initiatives, of which the government has played an important role to fulfil its rehabilitation and reintegration objectives. Having a criminal record results in social discrimination and having a criminal record always is a barrier in achieving

the objectives rehabilitation and reintegration. (United Nations Office on Drugs and Crimes, 2018)

To deal with this the Government of Costa Rica came up with a legislative reform in the year 2017 - Law 9361. The Law 9361 provides an opportunity to the incarcerated to erase his/her criminal record. There is a set criterion which needs to be satisfied at first to fulfil the eligibility to erase one's criminal record. (Cortes, Molina, 2017). The criteria consider the length of the sentence, the offence committed and, when relevant the "situation of vulnerability" of the offender. This power to erase the criminal record also depends upon the discretion of the court (Penal Reform International, 2018).

The prison system in Singapore too has come up with some strong social rehabilitation programs. The initiatives by the Singaporean prison system has been a great initiative to allow the inmates to reconnect with their families. The Singaporean prison system to ensure proper reintegration encourages the prison inmates to develop closer relationship with family during the four-hour long family day. During this time, the inmates are allowed to meet with their family members freely without any glass barrier between them (Tan, 2017).

The Singaporean prison system also includes the use of technologies for a better rehabilitation and reintegration. The Singaporean Prison services started with a new initiative where the prisoners were given tablets to share in their cells. Connected to a secure internal network the inmates are free to use the tablets to communicate with their families and also participate in online courses and read news and books (Huiwen, 2017).

Kenya is another nation which has along with its economic rehabilitation programs has also initiated social rehabilitation programs. To provide proper rehabilitation and reintegration to the offenders, the Kenyan prison system has given importance to community services. The Kenyan prison system to deal with its growing prison population and stop the unnecessary use of imprisonment, has increased the use of community services. (Penal Reform

International, 2018) The fact that the prisons have a negative impact upon one's life has also resulted in the community services being given much more importance. The community services in the Kenyan prison system aims at empowering the offenders economically through the community services. Increase in the use of community services allow prison to be avoided and these community services programs try to ensure that the offenders become economically empowered to lift themselves and their families (Tanui, 2016).

Zimbabwe has given due importance to the relationship inmates maintain with their families to help in the reintegration of the inmates into the society. The Zimbabwean prison system has come up with family weeks with aims at promoting a closer relationship between prisoners and their families. (Razemba, 2017)

The Italian prison system too has initiated many social rehabilitation programs, to fulfil its rehabilitation and reintegration objectives. Italy in the recent years have dropped its incarceration rate by 20 per cent to approximately 89 per cent per 100,000 citizens. (Boatwright, 2017) The Italian prison system has given public interaction as its priority to fulfil its rehabilitation and reintegration commitments. Public interaction aims to change the attitude of the society towards the incarcerated (Huiwen, 2017).

One prison in Italy has started a restaurant on its prison grounds named the "In Galera," which when translated means "In prison" (Boatwright, 2017). This has resulted in the changing the views of the public regarding the incarcerated and this kind of public interaction also eases the reintegration process of the offenders back into the society. Tihar Jail in New Delhi, India has a similar project going. An NGO named *Bambini Senza Sbarre* in Italy has started organizing football matches for prisoners and their children. This initiative makes the reintegration process smooth and the visits of the families to the prison more normal and enjoyable (Keh, 2017).

The Government of Cambodia, like the prisons in Italy and Zimbabwe, with the aim of ensuring a smooth reintegration process for the inmates and

also to ensure proper rehabilitation introduced open visits for pregnant women and women with children by passing a ministerial regulation (Penal Reform International,2018) The Cambodian prison system also came up with the pilot programme of community services as an alternative to prisons for a better rehabilitation process (The Phnom Penh Post, 2018).

The Indian prison system in its pursuit to provide social rehabilitation initiatives to its inmates have tried to reach out to the prisoners religiously. The Government of Haryana in its initiative named, *Cow Therapy* has provided six jails with six hundred cows to be looked after by the prison inmates. This has been done with the aim of improving the psychological and the physical health of the inmates. This has been done as cows are considered to be holy in the Hindu religion. The prisons in the State of Haryana has also given importance to the involvement of families and helping the inmates to maintain a healthy relationship with their families by introducing a system called the, *Prison Calling System*. (Abbas; Dhanuka, 2019). To allow interact with people, the prisons in the State of Haryana has also established, *Mulakat Kaksh* in various jails in Haryana. (Prison Statistics India, 2014).

The State of Andhra Pradesh ensures that the inmates maintain their family ties and enable that by installing telephones in the jails to make the communication process between the inmates and the family easier (Prison Statistics India, 2014). Similar to the prisons of the State of Andhra Pradesh, the prisons in the State of Himachal Pradesh have come up with a initiative called the, *Jail Vatra* which provides video conferencing facilities to the inmates, so that they can talk to their family members (Prison Statistics India, 2014).

Analysis

Rehabilitation and reintegration are a major objective of the prison system which should be given focus so that the inmates are able to provide for themselves properly once they have served their sentence and its easier

for them to reintegrate back into the society. But notwithstanding some efforts in this direction, India is lagging behind in the field of rehabilitation and reintegration. A comparative analysis of global practices evidences the fact that India has much work to do in the field of rehabilitation and reintegration.

It will be unfair to say that the Indian prisons have not tried to implement rehabilitation and reintegration programs, but it needs to be increased and there also needs to be proper study to look into what practices would be effective in various states of India. While looking into the practices of various jails in India, it was observed that there is a much need of upgradation of practices in most of the Indian jails and also that its time to use technological means to fulfil the rehabilitation and reintegration goals. Very few jails in India have started taking the assistance of technology to provide rehabilitation and reintegration programs.

There is an urgent need to conduct proper study of the practices of rehabilitation and reintegration practices of jails in India and especially of Assam. The need is obvious as there exists very few literature on the rehabilitation and reintegration practices of India and even if there were a few like the Prison Statistics India, 2014, there was no mention of Assam jails. This clearly shows that there is a dire need to have a proper study on the rehabilitation and reintegration practices of Assam jails.

Another aspect which the author would like to stress upon would be the need to have a mix of both economic and social rehabilitation. Many prisons implement only economic or just social rehabilitation programs. But after looking into the various literatures it can be said that there is a requirement to have programs of both kinds in the India. Some jails like those in the States of Haryana and Andhra Pradesh have both the practices and this needs to be implemented throughout the jails in India.

Conclusion

Rehabilitation and reintegration is one of the most major obligation of the prison system and as well as of the society. There have been many practices which have achieved some goals of rehabilitation and reintegration, but it seems that somewhere it has come short.

Crimes are still occurring every day and most of them are by repeat offenders. (Alper, Hass, et al, 2017). The recidivism rate doesn't seem to stop increasing and the prison population is not decreasing, but rather increasing and the population in prison is filled with reoffenders. (Alper, Hass, et al, 2017). This shows that rehabilitation and reintegration and its models have lacunas which needs to be solved.

India has been trying to implement number of rehabilitation programs to rehabilitate the offenders. But the major problem with India is that prisons are under the state list, i.e. the state governments are responsible to run the prisons and provide for rehabilitation. There is serious deficiency in allotment of funds to ensure a proper management of jails. This seems to be a major problem for providing proper rehabilitation and reintegration to the inmates as there is a dire need of having accountability and most importantly a structure for providing rehabilitation. India requires a proper vision and framework which ensure that the jails across the states to ensure proper rehabilitation and reintegration.

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