

## **Inconsistencies in the Application of the Reformative Theory in India**

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### **Abstract:**

The article explores the application of the reformative theory of punishment in the Indian context, highlighting inconsistencies and lacunae in its implementation. It emphasizes the humanitarian aspect of the reformative theory, focusing on rehabilitating wrongdoers and reintegrating them into society. The paper critically assesses the co-existence of the reformative theory with harsh punishments like life imprisonment and the death penalty, pointing out the need to bridge the gap between its philosophical principles and real-world application. Ultimately, it calls for further deliberations to ensure a more consistent and effective criminal justice system.

Keywords: reformative theory, Indian context, criminal justice system, inconsistencies, rehabilitation.

### **1. Introduction: Paradigm of Punishment**

The paradigm of punishment has been a longstanding aspect of society, evolving in tandem with changes in societal norms and interpretations. It is widely acknowledged that much of the crime prevalent in society is symptomatic of deep-seated social maladjustments and injustices. These underlying societal malaises influence an individual's thoughts and actions, shaping their behavior. The upbringing, treatment, and education of individuals play a pivotal role in their ability to adhere to societal norms and expectations. Punishing criminals with severe penalties, such as corporal punishment, is seen as merely addressing the surface of the issue, failing to address the inherent societal problems that contribute to crime.

The concept of punishment is deeply intertwined with societal beliefs about what is morally and ethically wrong. As a result, the definition and interpretation of crime and punishment are subject to change based on the context and the fields in which they are applied, including criminology, sociology, political science, and criminal law. From a moral philosophy perspective, punishment is given a broad and holistic interpretation, encompassing various societal, political, economic, and cultural developments.

The relationship between crime and punishment is complex and intrinsically linked, with the interpretation of crime and the severity of punishment evolving alongside societal changes. As society changes, so do the definitions and interpretations of crime and punishment. This continuous evolution creates a need for new solutions to address emerging problems, leading to contestation, contentions, and disagreements within the criminal justice system.

The theories of punishment have also evolved in response to societal changes and the intensities of various crimes. The deterrence theory aims to prevent crime by creating apprehension for punishment, physically or otherwise disabling the criminal from committing the crime, and reforming and rehabilitating the wrongdoer. However, studies have contested the effectiveness of deterrence in preventing crime. The retributive theory, centered on the doctrine of 'an eye for an eye,' emphasizes proportionate punishment for grave offenses. In contrast, the reformatory theory focuses on rehabilitating wrongdoers and reintegrating them into society as law-abiding citizens.

The application of the reformatory theory in the Indian contemporary context has raised concerns about inconsistencies, particularly in cases of heinous offenses where the death penalty and life imprisonment are imposed. This coexistence of the reformatory theory with harsh punishments highlights the need to bridge the gap between its philosophical principles and real-world application. The criminal justice system must strive for consistency and effectiveness in addressing societal malaises and individual factors contributing to criminal behavior.

## 2. Overview of the Reformative Theory

The reformative theory of punishment is centered on the rehabilitation of the criminal through various means, aiming to transform them into peaceful, law-abiding citizens upon their reintegration into society. This theory is rooted in the belief that an individual's actions are influenced by their genes, upbringing, and the environment they are exposed to, emphasizing the need for reformation as a means to cure the "disease" of crime. The philosophy of the reformative theory is largely inclined towards the humanitarian aspect and the protection of human rights, advocating for the renewal of the criminal and the beginning of a new life for them. The primary objective of this theory is to reform and rehabilitate wrongdoers, ultimately facilitating their peaceful reintegration into society as individuals who understand the repercussions of their actions and comply with societal norms and laws.

## 3. Theories of Punishment

**Deterrence Theory** aims to prevent crime by creating apprehension for punishment and keeping the severity of the punishment high. It operates on the philosophy of deterring criminals from committing offenses through the fear of punishment, physically or otherwise disabling the criminal from committing the crime, and reforming and rehabilitating the wrongdoer. The objective is to prevent crime by instilling fear and incapacitating the wrongdoer, ultimately aiming to deter individuals from committing offenses.

**Incapacitation Theory** focuses on incapacitating the wrongdoer, creating a physical inability to perform the crime again. This theory extends to capital punishment and aims to remove dangerous individuals from society, preventing them from posing a threat to the community. The objective is to physically disable the wrongdoer to ensure their inability to commit the crime again, often involving severe forms of punishment such as capital punishment.

**Retribution Theory**, also known as the 'Theory of Vengeance,' is centered around the principle of 'an eye for an eye.' It emphasizes proportionate punishment for grave offenses and is based on the doctrine of Lex talionis, which translates to 'an eye for an eye.' The philosophy of this theory is rooted in the belief that those who commit serious crimes must be subjected to punishment proportional to their offense. It is morally driven, seeking to impose a similar

threshold of punishment as the crime committed.

**Prevention Theory** takes an approach that aims to prevent offenses by punishment, creating apprehension in the minds of potential wrongdoers to deter them from committing the act. It also includes incapacitating the wrongdoer to ensure their disability to perform the crime again. This theory has a societal impact, setting a general precedent for the public to deter them from committing crimes.

**Reformative Theory** is characterized by its humanitarian aspect and objectives, focusing on rehabilitating wrongdoers and reintegrating them into society as law-abiding citizens. It aims to reform the criminal through rehabilitation means, transforming them into peaceful, law-abiding individuals upon their reintegration into society. The focus is on the renewal of the individual, emphasizing the philosophy of hating the sin and not the sinner, and addressing the societal responsibility for crime.

#### 4. Application of the Reformative Theory

The application of the reformative theory of punishment in the Indian context has revealed significant inconsistencies, particularly in cases of heinous crimes where the death penalty and life imprisonment are imposed. The philosophical underpinnings of the reformative theory are rooted in its humanitarian aspect and the protection of human rights. This theory emphasizes that crime is akin to a disease and cannot be effectively addressed through punitive measures such as killing. Instead, it advocates for the rehabilitation and reformation of wrongdoers, aiming to reintegrate them into society as law-abiding citizens.

In the Indian context, the imposition of the death penalty and life imprisonment in cases of heinous crimes presents a stark contrast to the principles of the reformative theory. This inconsistency is further exacerbated by the societal responsibility for crime and the contributing factors that lead individuals to commit offenses. For example, the lack of access to education, economic disparities, and social injustices can significantly influence an individual's likelihood of engaging in criminal behavior. The reformative theory underscores the need to address these underlying societal malaises and individual factors, rather than resorting to punitive measures that do not align with its humanitarian philosophy.

Furthermore, the imposition of life imprisonment, which is intended to protect society from crime, may contradict the principles of reformation, as it may not effectively rehabilitate the wrongdoer. In practicality, life imprisonment often does not equate to incarceration for the individual's entire life, leading to a discrepancy between the intended punishment and its actual implementation. This discrepancy highlights the lacunae in the criminal justice system, where the philosophical principles of the reformatory theory are not consistently applied in practice.

In summary, the inconsistencies in the application of the reformatory theory in the Indian context underscore the need for a more nuanced and consistent approach to punishment. By addressing the societal factors contributing to crime and aligning punitive measures with the humanitarian philosophy of reformation, the criminal justice system can strive to achieve a more effective and equitable approach to addressing criminal behavior.

## 5. Critique and Recommendations

The critique of the existing gap in the application of the reformatory theory of punishment in the Indian context centers on the failure to address underlying societal malaise and the co-existence of the reformatory theory with harsh punishments such as the death penalty and life imprisonment. This inconsistency highlights the need for further deliberations to bridge the gap between the philosophical principles of the reformatory theory and its real-world application. It is imperative to ensure consistency and effectiveness in the criminal justice system by aligning punitive measures with the humanitarian philosophy of reformation, addressing societal factors contributing to crime, and striving for a more equitable approach to addressing criminal behavior. This necessitates a comprehensive review of the current application of punishment, with a focus on rehabilitating wrongdoers and reintegrating them into society as law-abiding citizens. Such deliberations are crucial to ensure that the criminal justice system effectively addresses the multifaceted societal malaises and individual factors contributing to criminal behavior, ultimately striving for a more consistent and effective approach to punishment.

## 6. Recommendations for Deliberations

The document highlights the existing gap between the philosophical aspect and the application

of the Reformative Theory of Punishment. It emphasizes the failure to address underlying societal malaise and the co-existence of the reformative theory with harsh punishments such as the death penalty and life imprisonment. The critique underscores the need for further deliberations in the criminal justice system to bridge the gap between philosophical principles and real-world application, ensuring consistency and effectiveness in addressing criminal behavior.

The failure to address underlying societal malaise contributes to the lacuna between the philosophy and application of the Reformative Theory. This gap leads to arbitrariness in decision-making and hinders the intended task of protecting society from crime. Additionally, the co-existence of the reformative theory with harsh punishments, such as life imprisonment and the death penalty, contradicts the philosophy of reformation and rehabilitation.

To address these issues, it is recommended to bridge the gap between philosophical principles and real-world application. This involves aligning punitive measures with the humanitarian philosophy of reformation, addressing societal factors contributing to crime, and striving for a more equitable approach to punishment. Furthermore, ensuring consistency and effectiveness in the criminal justice system is crucial to achieve the objectives of the reformative theory.

In summary, the document critiques the existing gap in the application of the reformative theory, emphasizing the need for deliberations to reconcile philosophical principles with real-world application and ensure a more consistent and effective approach to punishment in the criminal justice system.

## 7. Conclusion

In conclusion, the critical assessment of the inconsistencies in the application of the Reformative Theory of Punishment underscores the need for further deliberations to bridge the gap between philosophical principles and real-world application, ensuring a consistent and effective criminal justice system. The philosophical underpinnings of the Reformative Theory emphasize the humanitarian aspect and the protection of human rights for individuals post-committal of a crime. It is imperative to recognize that the criminal justice system should not only focus on punishment but also on the rehabilitation and reintegration of wrongdoers into society. This approach aligns with the principles of human rights, acknowledging that

individuals have the potential for reformation and should be given the opportunity to contribute positively to society.

The existing lacunae in the implementation of the Reformatory Theory highlight the need to reconcile philosophical principles with the real-world application of punishment. This reconciliation involves a comprehensive review of the current application of punishment, with a focus on rehabilitating wrongdoers and reintegrating them into society as law-abiding citizens. By addressing the societal factors contributing to crime and aligning punitive measures with the humanitarian philosophy of reformation, the criminal justice system can strive to achieve a more consistent and effective approach to addressing criminal behavior. This approach not only upholds the principles of human rights but also contributes to the overall well-being and harmony of society.

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