

Encyclopedia of Criminal Justice

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Rehabilitation

Definition: Punishment intended to reform a convict so that she can lead a productive life free from crime.

Criminal Justice Issue: Punishment

Significance: While rehabilitation may be the most humane and progressive form of punishment, it is also the most difficult to achieve and has waned in popularity since the 1970s.

@FP= Although rehabilitation is often considered a type of punishment for criminal offenders, its objectives are therapeutic rather than punitive. While some theories of punishment claim that criminals deserve to suffer for their crimes, the rehabilitative ideal views criminal behavior more like a disease that should be treated with scientific methods available to cure the offender. Many convicts suffer from mental and physical illness, drug addiction, and limited opportunities for economic success and these problems increase the likelihood that they will engage in criminal activity. If we simply incarcerate the convict while she “pays her debt to society,” she will likely reenter it with all of the obstacles that drove her to crime still in place. She will also need to contend with additional difficulties: a criminal record will impact her employment opportunities, she will be older and still without marketable skills or education, her social relationships may have deteriorated while she was in jail, and she may have become further acclimated to criminal culture. Thus incarcerating offenders could actually make them more likely to commit offenses after they are released, and recidivism rates attest to this. A rehabilitative approach would attempt to treat the underlying cause of her transgressions so that she can return to society to become a full and productive citizen. In other words, instead of exacting revenge against criminals and making their lives worse, rehabilitation tries to help them.

Early American prisons, such as those at Auburn, Ossining, and Pittsburgh during the 1820s, implemented rehabilitative principles. These early programs isolated convicts in order to remove them from the temptations that had driven them to crime and to provide each inmate with time to listen to her conscience and reflect on her deeds. This belief that all convicts would return to their inherently good natures when removed from the corrupting influences of society gave way to more aggressive forms of treatment informed by the rise of social scientific studies into criminal behavior. Research in psychology, criminology, and sociology provided reformers with a deeper understanding of deviance and sharper tools with which to treat it. Rehabilitation became a science of reeducating the criminal with the values, attitudes, and skills necessary to live lawfully. Rehabilitation thus takes many forms in practice, including psychological analysis, drug and alcohol treatment, high school equivalency and other educational programs,

vocational training, relationship counseling, anger-management therapy, religious study, and any other service required to meet the needs of particular offenders.

Because rehabilitation believes each offender has different problems to overcome, her program for reform should be fashioned accordingly, just as a doctor prescribes treatment for a sick patient. Thus each sentence is individualized and two convicts committing the same crime may receive entirely different sentences. Someone driven to steal because of drug addiction, for example, will require different treatment than an immigrant who shoplifts because she cannot find work adequate to feed her family. Rehabilitative punishment is tailored to the offender rather than to the crime.

According to rehabilitative theories, prison may not be the best venue for achieving its objectives because it isolates the offenders from the realities of life with which they must learn how to cope. Incarceration also causes offenders to become dependent on the prison system. Non-custodial sentences, such as parole, probation, community service, and deferred sentences serve to keep the offender functioning within her ordinary life to some degree while helping her learn how to manage the responsibilities she will face after her sentence has expired. Such strategies are thought to be particularly important in the treatment of young offenders.

Rehabilitation seeks to reform not only individual convicts, but also the social conditions contributing to criminal culture. Correlations between crime and, for example, drug addiction and poverty are well known. To some degree, these social ills cause crime. Treating individuals afflicted with these symptoms does not stop the spread of the disease infecting so many others. Such problems transcend individual offenders, and a complete criminal justice system would root out the structural conditions creating so many criminals. Under this theory, criminal behavior bespeaks a sick society rather than simply a deviant individual.

Rehabilitative justifications for punishment have lost popular support since the 1970s in light of attacks on two fronts. While some argue that rehabilitation is fundamentally immoral, others claim it is too impractical. Retributivists, who cite the ancient “eye for an eye” maxim and believe that an offender should be punished only because she deserves to suffer as payment for her transgression, spearhead moral critiques of rehabilitation. By pampering criminals with therapy and education, retributivists argue, we fail to exact the revenge justice demands. This injustice is most evident in the practice of individualized sentencing because it can lead to disparate punishment for the same crime and can excuse an offender from serving hard time. Such inequalities are patently unjust for the retributivist. In response to this perceived unfairness, reformers successfully lobbied for punishment to be meted out in determinate and standardized sentences corresponding to the moral desert of offenders. This movement culminated in the Sentencing Reform Act of 1984 and the Federal Sentencing Guidelines, which remove most discretion from sentencing and have resulted in skyrocketing incarceration rates.

Retributivists also find rehabilitation morally unjustifiable because it denies an offender's responsibility for her actions by attributing her behavior to forces beyond her control, such as her sickness or circumstances. Rehabilitation thus treats the offender as if she is not ultimately accountable for her choices. This, according to the retributivist, reduces her to an animal or child and leads to techniques that strip offenders of their dignity. As Anthony Burgess dramatically demonstrated in his novel *A Clockwork Orange*, it is unclear how far rehabilitative methods will go to reprogram individuals into obedient citizens. As we can now inject drugs that will decrease libido in sex offenders or perform psychosurgery to reduce violent tendencies in convicts, for instance, we create humans that are effectively unable to choose to do good or evil. Because choice is so fundamental to our understanding of what it means to be fully human, such punishment is perceived as inhumane.

From a different theoretical tradition, in *Discipline and Punish* Michel Foucault described the historical shift from spectacular corporal punishment to more subtle rehabilitative techniques as an increasingly efficient form of social control that blurs the boundaries between incarceration and freedom. When punishment and education are conflated, penological methods seep into all of civilian life. Foucault claims that as a result we have become a "carceral" society.

Beyond these moral concerns, some doubt the practicality of rehabilitation. First, despite the boom in criminological research, we still know very little about what causes crime and even less about how to reform criminal behavior. It is difficult to measure the success of rehabilitative methods, and recidivism rates have done little to convince those who doubt the effectiveness of rehabilitative techniques. Judging the progress of an offender is subject to interpretation, and those undergoing treatment have considerable incentive to feign reform in order to expedite their release. For the most serious offenders, most remain skeptical that any amount of therapy would change their ways. But perhaps the most determinative practical concern has been economic in nature: it is expensive to administer an effective rehabilitative system, and few politicians are willing to devote funds to such an unpopular and disenfranchised group.

Advocates of rehabilitation respond to these criticisms by claiming that their methods have not been genuinely attempted because they have never received adequate resources. Within the current political climate, the decline of rehabilitation provides the right with an occasion to extend its anthem of "personal responsibility" in matters of distributive justice to justifications for punishment. Just as the poor deserve their situation and can rise from destitution by working harder, conservatives argue, criminals deserve to be held accountable for their actions. For the left, such arguments for individual autonomy hide behind the deep social and economic injustices that segregate a racial and economic underclass behind prison walls.

Further Reading:

Allen, Francis. *The Decline of the Rehabilitative Ideal*. New Haven: Yale University Press, 1981. Charts the rise and fall of rehabilitative punishment.

Braithwaite, John. *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press, 1989. Argues that shame can be central to rehabilitation when done with respect for the offender.

Murphy, Jeffrie. *Punishment and Rehabilitation*. New York: Wadsworth Publishing Company, 1994. Collection of essays on rehabilitative and other justifications for punishment.

Garland, David. *The Culture of Control*. New York: Oxford University Press, 2001. Explains the theoretical, political, and cultural trends of the past forty years that have caused a shift from rehabilitative to punitive justifications for punishment in the United States and Great Britain.

Morris, Norval and Rothman, David. *The Oxford History of Punishment: The Practice of Punishment in Western Society*. Oxford: Oxford University Press, 1997. Provides an overview of the transformation of the prison and the role of rehabilitation over the course of its history.

Rothman, David. *The Discovery of the Asylum: Social Order and Disorder in the New Republic*. Boston: Little Brown, 1971. Considers the simultaneous rise of the prison and asylum as means of treating deviants.