

QUEST FOR A PARADIGM SHIFT FROM PUNISHMENT TO REHABILITATION AND REFORMATION OF OFFENDERS

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Abstract

Crimes are acts or omissions committed against the law and the state. The causes of crime in every society are enormous and oftentimes differ. This study assessed punishment, reformation and rehabilitation of offenders. Rehabilitation and reformation are relevant in addressing offenders across the globe; it is essential that these mechanisms of addressing offenders and improving their status and well-being should be adopted. Although, punishment of offenders is necessary sequel to retribution, deterrence, restitution, and incapacitation, this study is of the view that rehabilitation and reformation of offender are equally germane. Some challenges such as inadequate facilities, absence of a legal framework, inadequate financing, have bedeviled the propagation of rehabilitation and reformation of offenders in some societies. It is suggested that all states across the globe should introduce a legal framework to support rehabilitation and reformation of offenders for reintegration, and adequate educational and technical facilities should be encouraged.

keywords: Crime, Offenders, Punishment, Reformation and Rehabilitation.

1. INTRODUCTION

The purpose of law is to enhance and propagate social order and control and to ensure that human conducts are tamed in order to make the society habitable. This is why the law itself is seen as a rule put in place for social control of humans or to guide human conduct. It is against this backdrop too that law is regarded as normative in nature and this distinguishes law from other social sciences such as economics, sociology, criminology, anthropology and others.⁶ Thus, Selznick opined that ‘the sociology of law may be regarded as an attempt to marshal what we know about the natural elements of social life and to bring that knowledge to bear on consciously sustained enterprise, governed by special objectives and ideas.’⁷ Despite the enactment of laws by the legislature and other law-making bodies to guide the conduct of humans in the societies so as to make the societies conducive and habitable, human beings violate such laws from time to time. Laws could be generally categorized into civil and criminal, but this work, criminal law is under consideration. Whenever there is a breach of criminal law, there is always a penalty specified because offences

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⁶M.O.U.Gasiokwu, *Sociology of Law*, Revised edn.(Chenglo Publishers 2007) 1.

⁷P. Selznick, *The Sociology of Law*, in *Law and Behavioural Sciences*, (edited by L. Fredman and S. Macaulay 1969) 2-3.



are always defined and punishments prescribed thereof.⁸The commission of a crime could be caused by several factors including societal influences, peer group, anxiety, anger, socio-economic challenges, revenge, greed, pride, jealousy, alcoholism, drug addiction, juvenile delinquency, drunkenness, mistake, accident, insanity, provocation, mental incapacity or disorders among others.⁹ Therefore, when laws are violated and offences committed, the offender is punished in accordance with the punishment prescribed by the law establishing the offence.

It is submitted that the purpose of punishing offenders for committing any crime or offence is not only in the actual sense to punish the offenders per se, or for of deterrence, retribution, or restitution. However, some offenders require rehabilitation and reformation, with a view to reintegrating them properly into society. If the law is an instrument of change and social control, is it not right or lawful that the law provides for the rehabilitation and reformation of the offenders? It appears right to argue that the law itself which propagates the safety of the societies and humans should create an avenue for offenders to be changed and be reintegrated into the society. Therefore, for proper rehabilitation and reformation of the offenders, laws should create avenues for offenders to be changed and transformed so as to be useful to society again. In essence, it is vehemently argued that there should be a paradigm shift from punishment alone to life after punishment or imprisonment. To rehabilitate an offender encompasses providing treatment for such offender, counseling, and giving the offender the required and necessary support he might require from time to time. As stated earlier, offenders could commit crimes sequel to hunger, anger, unavailability of jobs, and poverty. On the other hand, reformation which is similar to rehabilitation entails the inquiry into moral and ethical reform or transformation of the offender. It encompasses the promotion of the growth, remorse, and values of the offender to reform or transform the offender to become a better person, become useful to society, and refrain from resorting to criminality.¹⁰

It has become pertinent that convicts or offenders are humans and they could be given another opportunity to change and contribute their quota to the improvement and development of society. It is not contended that offenders should not be punished but it is imperative to note too that after punishment, offenders should be rehabilitated or reformed to preclude them from committing other offences in the near future. Thus, it is submitted that incarceration without rehabilitation and reformation would add no value to the life of the offender or the society at large. Therefore, the welfare of an offender after punishment should never be treated with levity but with all the seriousness it deserves. Rehabilitation and reformation is not just basically on therapeutic, clinical, and traditional methods, it can take the form of skill acquisition, education, sports, farming, business and other means of empowering an offender all in a bid to brighten the future of the offender and for the offender to be reintegrated into the society. Rehabilitation of a convicted petty thief for instance, with a stable job after evaluation may put such an individual in a better condition than incarceration in a correctional center. It was against this backdrop that the Chief Judge of Gombe State, Nigeria, Justice Halima Mohammed made a donation of skills acquisition materials to inmates in the correctional centers in the State to prepare them for the task ahead after they must have served their jail terms.¹¹ Overall, it is argued that the basis of punishment should not only be tailored towards punishing the offenders or to act as deterrence, retribution, and restitution alone, but it should be geared towards reforming and rehabilitating offenders. Instances abound where prisoners later become better persons in the society after their

⁸Section 36(12) Constitution of the Federal Republic of Nigeria 1999 (as Amended); *Aoko v Fagbemi* (1961) ANLR 400.

⁹ Janne Kivivuori, Jukka Savolainen and Mikko Aaltinen, *The Revenge motive in Delinquency: prevalence and predictors* https://www.researchgate.net/publication/283155798_The_revenge_motive_in_delinquency_prevalence_and_predictors

¹⁰Punjab Probation and Parole Service – Home Department, ‘Understanding the Distinctions: Rehabilitation, Reformation, and Reintegration in Criminal Justice System’ <https://punjabprobationparoleservice.blogspot.com/2023/08/understanding-distinctions.html?m=1> accessed 5 June 2025.

¹¹C. Unini, ‘Inmates Should Get Something to do After Jail Term – CJ Mohammed Provides Soap Making, Detergent Production Items’ <https://thenigerialawyer.com/inmates-should-get-something-to-do-after-jail-term-cj-mohammed-provides-soap-making-detergent-production-items> accessed 7 June, 2025.



incarceration - a prisoner became a Professor after serving his jail term.¹² The fact that an offender has committed an offence today does not necessarily make him bad perpetually. An offender could change for the better if properly reformed or rehabilitated. It is further argued that punishment acts as a deterrent, restitution, and retribution, suffice to state that punishment alone cannot salvage the offenders' attitude towards crime. The objectives of this study are to examine the role of punishment, rehabilitation and reformation of offenders in criminal causes. This study formulates two questions: whether punishment is the best and only way to deal with offenders? And whether reformation and rehabilitation approach to offenders can be of help in handling offenders or convicts? The qualitative doctrinal methodology of research is adopted focusing on literatures, statutes scholarly works and case laws from different jurisdictions to analyze the role and importance of punishment, rehabilitation and reformation of offenders across the globe.

2. MEANING AND NATURE OF CRIME

Crime is simply an act or omission which is punishable or contrary to the provisions of the law and it is punishable by the law and the State. A crime is spelled out in a law and punishment is also provided for the breach of such law. An act is not a crime or an offence except it is provided for in any law and the punishment is provided in the law.¹³ Crime has been defined as 'a kind of deviance which in turn consists of variation from a social norm that is prescribed by criminal law.'¹⁴ In this sense, crime does not only mean a breach of the criminal law but a breach of the legal order in society. Hagan posited that 'there is an obvious difference in our society between multiple murder and adolescent marijuana use.'¹⁵ What is important here is to adumbrate the institutionalization and violations of the norms as it affect the violation of social norms and orders in the societies. This notwithstanding, many most serious deviants are regarded by law as criminals.¹⁶ Although the conceptions of crime change from time to time, it must be noted that some of these acts of deviants are *mala in se*, meaning that such acts are 'wrong in themselves,' whether prohibited by the law or not. Some acts may constitute deviance but not a crime. However, what criminal law tends to pursue or portray and achieve is prosecution and punishment of offenders while civil law revolves around compensation of a party who was offended. Crimes are those breaches of the law resulting in special accusatorial or inquisitorial procedures depending on a particular state, which is controlled by the state but liable to sanctions.¹⁷ The purpose of sanctions against crimes is to ensure that the societies are safe and to enthrone order, peace, and tranquility. The truth is that when individuals indulge in lawful acts and avoid unlawful omissions, there would be no crime in society. But there seems not to be a society without crime rather the prevalence of a particular crime in a particular state may not be heard of in another state. In the meantime, the meaning of crime could be further approached in different ways. First, this work shall consider the legal-consensus meaning, which is to the effect that criminality should be limited to its legally interpreted confine and individuals who are suspected criminals should be tried in court and probably be convicted.

Another approach to the meaning of crime is the socio-legal approach, and this approach is to the effect that there should not be total reliance on the legal consensus approach but it posits that an expansion of the attention to a series of anti-social behaviour including deviance can be regarded as a crime. The gravamen of this postulation is that if crime is restricted to the legal meaning, other activities not covered by the legal definition would not constitute crime.¹⁸ It argued therefore that the legal meaning of crime should be relaxed to pave the way for crime to encompass other acts or omissions not covered by the law. A cross-cultural approach to the meaning of crime is another means of defining crime. This approach to defining crime argues that the meaning of crime is beyond that expressed by law. Rather, it posited that every group has its standards of behaviour, otherwise known as the norms of conduct which is not always encapsulated

¹²L. Ryan, 'Former Inmate Turned AUT Law Lecturer, Calls for Better Reintegration' <https://www.nzherald.co.nz/business/companies/reintegration-intonz-society-needs-systemic-change-for-ex-prisoners-lanceryan/XHO2NV4XEJE6ZHPN7M7CVHRNIQ/> accessed 7 June, 2025.

¹³(n3).

¹⁴J. Hagan, *Modern Criminology* (MC Graw – Hil Publishing Company, New York, 19985) 49.

⁹*Ibid*, 49.

¹⁶*Ibid*, 51.

¹⁷C.O. Okonkwo, *Criminal Law in Nigeria* 2nd edn (Spectrum Law Publishing 1980) 20.

¹⁸*Ibid*, 44.



in any law.¹⁹ Again, there is the statistical approach in inquiring into the meaning of crime. This approach is to the effect that at various times in any society, some acts have been categorized as criminal and this is done in order to ensure order and tranquility in the society. Some behaviours are termed normal while others are abnormal or deviant. There is also the labeling approach of determining the meaning of crime. This approach labeled the deviant behaviour of individuals in the society revolves around the fact that an act is labeled crime or criminality when the people or law labels it as such. It presupposes that an act cannot be regarded as criminal or deviant unless the people within a cultural group or location label it as such - this can be likened to morality. Also, human rights approach is another approach to the definition of crime. This approach posits that defining crime has to do with the fundamental rights of the people. It is to the effect that 'all persons must be guaranteed the fundamental rights which are the prerequisite for well-being, and these rights are inalienable and interrelated.'²⁰ It behooves, therefore, the criminal law to protect these rights as guaranteed by the constitution and various international laws.²¹

Also, the utopian method of defining crime stipulates that crime and deviance should be defined as 'human diversity.' It is argued that crime is perpetrated out of the conflict between the oppressed and the oppressors.²² It also argued that some behaviours may be classified deviant because such behaviours are offensive and threatening to human existence in the segment of society. From the foregoing, crime can be seen as a kind of deviance that is composed of digressions from norm in the society, which is proscribed or condemned by the criminal law. No matter the terminology or approach applied in the definition of crime as seen above, the point to underscore is that crime connotes such acts or omissions perpetrated by offenders and deviants which offends the law or state and attracts penalties.

2.1 Categorization of Crime

Crimes are categorized or classified depending on their seriousness or severity. Crimes could be categorized as felonies, misdemeanours and what may be regarded as simple offences or crimes.²³ Felonious offences are such offences that the law declares to be felonious and which punishment may attract the death penalty or imprisonment for life or a certain duration of years of imprisonment. Misdemeanours are offences that attract imprisonment of not less than six months.²⁴ While simple offences are such offences that attracts a punishment of less than six months.²⁵ This categorization varies from state to state. In essence, criminal law tends to protect the individuals in a society by punishing such conduct which could be termed harmful or at variance with the norms in any society. Crimes could also be classified into serious - such as murder, armed robbery, kidnapping, rape, and burglary; and lesser offences or crimes - such as assault, stealing, traffic offences, and affray.²⁶ Again, crimes have been categorized as: crimes against persons; against property; against morality; hate crimes; white-collar crimes; and organized crimes.²⁷

By way of analysis from the foregoing, crimes against a person are such crimes that encompass murder, assault, rape, robbery, and others.²⁸ Crimes against property include, arson, burglary, theft, and a variety of others.²⁹ Hate crimes are crimes which encompass gender identity, race, religion, or ethnicity.³⁰ Crimes against morality which are also referred to as victimless crimes in that such crimes do not have complainants nor victims and these include prostitution, unlawful

¹⁹*ibid.*, 45.

²⁰S. Ugbo and M.E. OmagbemiAriko, 'An Analytical Review of the Constitutional Right to Life and Health', (BASUG Law Journal vol. 2(2) 2024) 88.

²¹Chap. IV Constitution of the Federal Republic of Nigeria 1999 (as Amended); African Charter on Human and Peoples' Rights and other International and Regional Conventions on Human Rights.

²²*Ibid.*, 48.

²³A.O. Obilade, *The Nigerian Legal System* (Spectrum Books Ltd 1979) 6.

²⁴*Ibid.*

²⁵*Ibid.*

²⁶A. Sanni, *Introduction to Nigerian Legal Method* (Obafemi Awolowo University Press Ltd 2006) 65.

²⁷A. Crossman, '7 Different Types of Crimes', <https://www.thoughtco.com/types-of-crimes-3026270> accessed 9 June 2025.

²⁸*Ibid.*

²⁹*Ibid.*

³⁰*Ibid.*



gambling, illicit drug use and abuse and others.³¹ White-collar crimes are crimes that are committed by the well-to-do or highly placed members of the society sequel to the positions they occupy or their occupation.³² Also, organized crimes are committed by cartel, syndicates, or mafias who indulge in criminality involving the control of illegal enterprises such as drugs, money laundering, and internet fraud (Yahoo-yahoo).³³ The various categories of crime have their punishments as prescribed by the laws. The severity or magnitude of punishment attached or provided for various offences depends largely on the magnitude or seriousness of the offence. Thus, some offences or crimes like murder, kidnapping, robbery, and armed robbery are punished with death in Nigeria and other countries. While others such as stealing, and assault are punished with certain terms of imprisonment. Some offences too are punishable by way of fine or even caning or by way of communal labour as the case may be. No matter the type of offence or crime, it must be noted that the law has been violated by an offender and the law takes its cause.

2.2. Causes of Crime

Lombroso of the positivist school of thought in criminology classified criminals into three, viz: atavists or what he called hereditary criminals - born criminals whom he described as being beyond reformation. It is submitted that it is incorrect that born criminals cannot be reformed. Every criminal can be reformed and rehabilitated no matter the magnitude of the crime committed by the offender. Another category of criminals or offenders as postulated by Lombroso is the insane criminals. He argued that this category of criminals does not understand the nature of crime or why they even commit crimes. Again, we are of the view that there is hardly a criminal that commits offence without knowing why such a criminal committed the crime. It is submitted that there is always a reason for the commission of a crime by offenders. The other category of criminals as propounded by Lombroso is the criminoids. He maintained that this category of criminals has resorted to crimes in order to conquer their inferiority in society. Although this categorization by Lambroso was not accepted earlier, it is pertinent to commend the scholar for such scholarly research and findings.³⁴

Nonetheless, the pre-classical school of thought in criminology opined that criminal behaviour was undertaken by way of spirits and demons and powers described as 'unknown'. It postulated that crimes are not ordinary but orchestrated by external divine causes such as evil spirits beyond the overall control of humans. It is submitted that the gods can be appeased for divine intervention and then prevent an offender from committing a crime for those who believe in this school of thought. Therefore, it should not be regarded as a basis for committing a crime. Again, Baccaria, Bentham and Romily of the classical school of thought argued that crimes are not committed upon being possessed by the devil or spirits but that humans possess the free will to commit crimes on their own.³⁵ This work argues that this position is not sacrosanct as crimes are not always committed on the free will of the offender. Thus, crimes could be committed consequent upon accident, mistake, provocation, drunkenness, insanity and other factors beyond human control.

The neo-classical school of thought is of the view that certain persons might likely commit offences as a result of some reasonable and justifiable grounds or circumstances. It posited that such persons, as a matter of fact, must be taken into consideration in determining their fate as it affects punishment. Ferri, on the other hand, classified criminals as: born criminals; occasional criminals; passionate criminals; insane criminals; and habitual criminals. He believed so much in the rehabilitation and reformation of criminals.³⁶ From the above analysis of scholars' postulations, it is glaring that the commission of crimes in society has been attributed to one thing or the other. These categorizations notwithstanding, it is argued that there is no criminal beyond reformation or

³¹*Ibid.*

³²*Ibid.*

³³*Ibid.*

³⁴Z. Darvesh, 'Schools of Criminology: A Comparative Analysis' (Indian Journal of Integrated Research in Law vol. 11 (11) 2021) <https://ijirl.com/wp-content/uploads/2022/03/SCHOOLS-OF-CRIMINOLOGY-A-COMPARATIVE-ANALYSIS.pdf> accessed 9 January 2026.

³⁵C. Beccaria, *Crimes and Punishment* 1963.

³⁶E. Ferri; *The Positive School of Thought of Criminology*, 13 August 2009.



rehabilitation. The theories by different schools of thought apportioned different punishments to various crimes consequent upon the reasons adduced for such crime commission.³⁷

The root causes of a crime could also be attributed to some factors, such as economic, poverty, social, and family factors.³⁸ Economic and poverty factors connote lack of education, absence of gainful employment, inadequate housing or accommodation, and diminishing interest in hope. Also, environmental factors could be considered the value and the assessment of priorities in the communities and the societies in general. Many communities and societies are lacking in social opportunities for the youths and younger citizens, inequity and inadequate support for families and communities, poor leadership in the societies and exposure to social media, are some of the attributes that herald the commission of crime in the societies. Again, commission of crime can be attributed to family structures. There is no gainsaying the fact that the family has a pivotal role to play in the life of a family member - a child. Juvenile delinquency can be attributed to a lack of proper upbringing by the family. Children who are abused and neglected are likely to be prone to crime.³⁹ Crime commission has equally been attributed to psychological factors such as socio-economic challenges,⁴⁰ absence of substance⁴¹, lack of access to education⁴², mental health challenges,⁴³ peer group influence,⁴⁴ low-income earning,⁴⁵ unemployment,⁴⁶ and other socio-economic vices. It is not possible to pinpoint one cause or causes, therefore, so many factors are responsible for crime commission across the globe.⁴⁷ As stated earlier, hunger, anger, vengeance, violence, retribution, and desperation, are other known causes of crime in society.

2.3 Law and Crime

In a strict sense, law refers to a body of rules put in place to guide human conduct in society.⁴⁸ Law guarantees a standard of living in every society, thus, if anyone violates the law such a person suffers the consequences whether in criminal or civil law. Grotius posited that whatever human act that is in tandem with natural law and justice is regarded as law. However, not all nature is absolute as some practices may not be just in the olden days nor are they fair in some cultures or communities.⁴⁹ Crime on the other hand is an aberration to society because it is a contravention of the law. The law prohibits some acts and omissions which if violated, culminate in the commission of a crime. The law also provides punishment for the violation of such criminal law that prohibits an act or omission. It is against this backdrop that Bentham regarded law as an efficient and

³⁷J. Bentham, (in 1789/1948) 151.

³⁸J. Vargas, 'The Impact of Socioeconomic Factors on Crime Rates' (Perspective – Addiction and Criminology vol. 6 (4) 2023 <https://www.alliedacademies.org/articles/the-impact-of-socioeconomic-factors-on-crime-rates-26135.html> accessed 23 June 2025).

³⁹CS & CPC Statement on the Root Causes of Crime Approved in 1996 (John Harvard Society of Canada – www.johnward.ca).

⁴⁰Looney, Adam, and N. Turner, 'Work and Opportunity Before and After Incarceration', (The Brookings Institution 2018) <https://www.brookings.edu/articles/work-and-opportunity-before-and-after> accessed 7 June 2025.

⁴¹Pearl and Veronica, 'Urban-Rural Variation in the Socioeconomic Determinants of Opioid Overdose' (The Journal of Drugs and Alcohol 2019) <https://pubmed.ncbi.nlm.nih.gov/30592998/> accessed 7 June 2025.

⁴²Education Access and Quality, US Department of Health and Human Services <https://health.gov/healthy-people/objectives-and-data/browse-objectives/> accessed 7 June 2025.

⁴³Noman A. Yusra and S. Jasbir, 'Psychiatric illness and criminality' (National Library of Medicine 2023) <https://www.ncbi.nlm.nih.gov/books/NBK537064> accessed 7 June 2025.

⁴⁴Kim, J. Fletcher and M. Jason, 'The Influence of Classmates on Criminal Activity in the United States', (The Journal of Deviant Behaviour 2019) <https://www.ncbi.nlm.nih.gov/pmc/articles/pmc5788185/> accessed 7 June 2025.

⁴⁵H. Stanley, 'Improving Mental Health Access for Low-Income Children and Families in the Primary Care Setting' (Journal of the American Academy of Pediatrics' 2017) <https://www.ncbi.nlm.nih.gov/pmc/articles/pmc5192088> accessed 7 June 2025.

⁴⁶Schleimer, P. Julia, 'Unemployment and Crime in US Cities During the Corona Virus Pandemic', (Journal of Urban Health 2022) <https://www.ncbi.nlm.nih.gov/pmc/articles/pmc8793820/> accessed 7 June 2025.

⁴⁷ See generally, Why Do People Commit Crimes? (Nine Reasons) by Alliant International University <https://www.alliant.edu/blog/why-do-people-commit-crimes> accessed 7 June 2025.

⁴⁸(n17).

⁴⁹(n 1) 32.



economical avenue to prevent crime commission in the societies.⁵⁰ Law is to achieve social order, so, law settles and prevents disputes in order to pave the way for the individuals to live peacefully and harmoniously. Law also acts as an instrument of devolving power to a group of persons to be in authority while others accept their control subject to the social contract. Law is, therefore, a product of consensus and custom.⁵¹ Law has a relationship with morality but some acts or omissions may be morally wrong but are not legally wrong.

However, Hart posited that:

A case of retroactive punishment should not be made to look like an ordinary case of punishment for an act illegal at the time. At least it can be claimed for the simple positivist doctrine that morally iniquitous rules may still be law, that this offers no disguise for the choice between evils which, in extreme circumstances, may have to be made.⁵²

From the foregoing, it is pertinent that morality forms part of the law, and acts that are moral may be accommodated and treated by the law itself. It follows that acts such as prostitution, drunkenness, conduct, and smoking, could constitute a nuisance to society and may be prohibited by law to avoid public disorder in society.

2.4. Punishment of Offenders

It is not in doubt that the functions of criminal law are numerous: to maintain order in society; to resolve disputes; to protect individual property; to protect society; and to safeguard the liberty of the people. In other words, criminal law tends to preserve the public order and decency, protect the citizenry from what is offensive and injurious; and provide sufficient safeguards against exploitation and corruption of the more vulnerable in the society - the young people and the weak. Generally, the law functions as an avenue for social order and it tends to resolve disputes and maintain social order. Crime itself is an intentional action in contravention of a criminal law without any excuse. It also encompasses deviant behaviours which constitute a breach of any established laws.⁵³ Earlier on, this work identified various types of crime and the causes of crime in society. The question that comes to mind at this juncture is: why are offenders punished for committing crimes? Again, is it even necessary to punish offenders for committing a crime bearing in mind that some of these crimes are committed sequel to some economic reasons and other reasons probably not borne by the offender or beyond the offender's scope? It is however, submitted that in as much as law tends to enthrone order, peace, and safety of the society, and laws are meant to be obeyed, criminal laws are not enacted for the fun of it; they must be obeyed. But the next question is: has punishment been salvaged or helped in eradicating the commission or perpetration of crimes in society? Or are there no alternatives to such punishments? Again what measures have the state taken to cater for the offenders probably during and after their imprisonment? Should there be a paradigm shift from punishment to reformation and rehabilitation? We submit that this is the fulcrum of this work. The reasons for the punishment of offenders shall now be re-examined. Punishment has its theories and they include: deterrence, incapacitation, rehabilitation, restitution, retribution, and reformation. Unfortunately, so many countries across the globe have abandoned rehabilitation and reformation as part of theories of punishment.

First, deterrence as a theory or mode of punishment is specifically to deter or prevent offenders from engaging in the same or other criminal activities. It is argued that when an offender or defendant is punished he is not likely not to commit the same offence or other offences for fear of being punished again.⁵⁴ It is believed that 'laws without enforcement are just good advice' as expressed by Lincoln. Be that as it may, it is submitted that punishment has not stopped or deterred so many offenders from the commission of crimes.⁵⁵ Another theory or reason for the punishment of offenders is retribution. This is the aspect of the theory of punishment that postulates that crimes are prevented when a defendant or offender is made to adequately suffer or be punished for what he had done. It is argued that one of the ways to make a victim and probably

⁵⁰(n 8) 38.

⁵¹*Ibid*, 36.

⁵²H.L.A. Hart, *The Concept of Law* (Oxford University Press 1961) 211-212.

⁵³Section 36 (12) CFRN 1999 (as Amended).

⁵⁴*The Purpose of Punishment*, (Alaska Criminal Law 2022 edn.)

⁵⁵S. Ugbo and E.G. Ikeatu, 'Quest for the Fundamental Rights of a Convict in Criminal Causes Involving Death Penalty in Nigeria' (KB Law Scholars Journal vol. 2 No 2 2025), 35.



his family feel relieved is to adequately punish an offender for the crime he committed. This notwithstanding, in *Kelly v State*,⁵⁶ the Supreme Court held that it is inconsistent with the constitution of Alaska for a judge to use retribution as a goal of sentencing. It follows from the foregoing that retribution is not a legal reason for sentencing an offender. Another reason for punishment is restitution. What restitution seeks to achieve is to repair the loss or harm caused or the blow dealt to the victim of the offence. It can take the form of payment to the victim in order to cover the pains, sufferings, or emotional trauma faced by the victim of the offence.⁵⁷ Incapacitation is another ground for punishing offenders. Incapacitation entails the removal of the offender from the society. When an offender is incarcerated in the prison or correctional center? He would no longer commit a similar offence or other offences. An example is the death penalty. If an offender is sentenced to death by hanging and is executed, he is incapacitated and can no longer commit such offence. As the internet fraud syndrome escalates in Nigeria, the courts have taken bold steps to incapacitate fraudsters in the country otherwise known as 'yahoo boys' and girls' to preclude them from further committing the crime.⁵⁸

3. REHABILITATION AND REFORMATION OF OFFENDERS

Rehabilitation and reformation of offenders are parts of theories of punishment. However, many states seem to have abandoned these all-important aspects of the life of offenders. It is submitted that a paradigm shift from imprisonment to rehabilitation and reformation of offenders would go a long way toward improving the lives of the offenders rather than incarceration. The causes and types of crimes have been discussed and it is glaring that so many offenders commit crimes as a result of economic quagmire in their environments, frustration, anger, vengeance, under the influence of alcohol, peer group and other reasons. The question therefore is; what does rehabilitation and reformation refer to? Rehabilitation means 'treatment, counseling and support' towards offenders for the purpose of inquiring into or handling the causes of criminal behaviour or acting with a view to enhancing growth and ensuring positive change.⁵⁹ Rehabilitation seeks to inquire into the health status of an offender, employment status, drug abuse, peer connections, education status of the offender, anger issues, and other related issues.

On the other hand, reformation which is similar to rehabilitation, deals with the 'moral and ethical transformation of an offender. What reformation focuses on is changing the value and behaviour of the offender and his mindset as it affects his behavioural tendencies.⁶⁰ When this is done, the offender can be reintegrated into the society to become a better person. Reintegration is the process of bringing back offenders to society after they have served their punishment.⁶¹ The major difference between rehabilitation and reformation is that whereas rehabilitation is geared towards the restoration of an offender by working on his health by way of therapy or training, reformation is all about changing an offender's character, values, and probably beliefs to make such an offender a better person when integrated into the society.⁶² It has been argued that technology should be devised in offenders' rehabilitation, and that e-learning should be contextualized to enhance digital education for prisoners or inmates in order to enhance their reintegration to the society.⁶³ Since the 21st Century is being grappled with cyber-related crimes exacerbated by the increasing demand for technology across the globe, there seems to be a need for rehabilitation for cyber-

⁵⁶622, 2d 432, 435 (Alaska 1981).

⁵⁷*Ibid.*

⁵⁸V. Ayeni, 'Courts Sentence 34 Internet Fraudsters to Jail' <https://punchng.com/courts-sentence-34-internet-fraudsters-to-jail/> accessed 10 June, 2025.

⁵⁹N. Gafoor, 'Understanding the Distinctions: Rehabilitation, Reformation, and Reintegration in Criminal Justice System' <https://pinjabprobationparoleservice.blogspot.com/2023/08/understanding-distinctions.html?m=> accessed 11 June 2025.

⁶⁰*Ibid.*

⁶¹*Ibid.*

⁶²M. Kirtley, 'What is the Difference Between Reformation and Rehabilitation?' <https://www.quora.com/what-is-the-difference-between-reformation-and-rehabilitation> accessed 11 June 2025.

⁶³G. Mahlangu and E. Zivanai, 'Offender e-learning: A Systematic Literature Review on Re-entry, Recidivism and Life AfterPrison' (Cogent Social Sciences vol. 9(2) 2023) <https://www.tandfonline.com/doi/full/10.1080/233//886.2023.2246706#abstract> accessed 11 June 2025.



criminals.⁶⁴ It has also been observed that inadequate rehabilitation and reformation of offenders has culminated in the rise of criminality in south eastern Nigeria.⁶⁵ This has been attributed to a lack of funding and inadequate facilities in the correctional centers in Nigeria. Also, it is stated that an assessment of the Nigerian prisons (Correctional centers) indicates that rather than reform and rehabilitate offenders or inmates, it is evidenced that retribution is still the order of the day.⁶⁶ It is equally argued that prison congestion and the absence of facilities and necessary infrastructure are the bane of the rehabilitation and reformation of offenders in Nigeria.⁶⁷ The deplorable condition of the correctional centers in Nigeria and sub-Saharan Africa is nothing to be reckoned with, and these shortcomings have jeopardized an enabling environment for the rehabilitation and reformation of inmates or offenders.⁶⁸

Rehabilitation could be through education, where the offender would be made to study or learn by way of going through schools; it could equally be using occupation - an offender could be made to learn and acquire skills; and rehabilitation could also be through psychological means where offenders' mental and health challenges would be addressed.⁶⁹ In South Africa, there are challenges to effective rehabilitative measures for offenders, and new rehabilitative measures such as restorative justice and good living measures were suggested to address the issue.⁷⁰

3.1 Rehabilitation and Reformation of Offenders in Nigeria

As previously identified, custodial punishments have not been completely successful in deterring offenders from returning to commit crimes after their release and in some cases, these convicts after release are convicted for other infractions and return to the correctional centers. Tobi-Mulero identifies some failures of custodial punishment in Nigeria including that it results in psychological and physical damage to some inmates, gives room for sexual exploitation by fellow inmates overcrowding and congestion are common and can cause harm, custodial punishments increase the cost of the state when compared to non-custodial punishments. Suggestions were made for the adoption of community service, probation, and fines instead of incarceration in custodial centers.⁷¹ Nevertheless, rehabilitation as an alternative to custodial sentencing has been applied in certain circumstances in Nigeria, most popular to the several repentant Boko Haram terrorists.⁷² The issues with rehabilitation and reformation of offenders in Nigeria lie with limited uncertainties about what it entails and its implementation. Rehabilitation and reformation are alternative routes to custodial

⁶⁴P.N. Ndubueze, 'Critical Issues in Offenders' Rehabilitation in the 21st Century Nigeria' 2020 ResearchGate https://www.researchgate.net/publication/359244213_critical_issues_in_offenders'_Rehabilitation_in_the_21_st_Century_Nigeria accessed 11 June 2025.

⁶⁵K. Osayi, 'An Assessment of the Reformation and Rehabilitation Programmes of the Prison Service in the South Eastern Nigeria: Implication for Social Work Profession' https://papers.ssrn.com/8013/papers.cfm?abstract_id=4534555 accessed 11 June 2025.

⁶⁶O.S. Ameh and C.U. Ugwuoke, 'Rehabilitation of Convicts in Nigeria Prison: A Study of Federal Prisons in Kogi State' https://www.researchgate.net/publication/335773070_Rehabilitation_of_convicts_in_Nigeria_Prison_A_Study_of_federal_prisons_in_Kogi_State accessed 11 June 2025.

⁶⁷O. Oni, 'The Role of Prison Services in Prisoners' Rehabilitation' https://www.researchgate.net/publication/388035877_THE_ROLE_OF_PRISON_SERVICES_IN_PRISONER_S'_REHABILITATION accessed 11 June 2025.

⁶⁸C.A. Abrifor, S.S. Popoola and G.U. Essien, 'Inmates Rehabilitation Programmes and Recidivism in the Selected Correctional Facilities in the South Western Nigeria: A Literature Review' <https://fjess.fuoye.edu.ng/index.php/fjess/article/view/47> accessed 11 June 2025.

⁶⁹Blackstone Career Institute, 'Types of Rehabilitation Programs in Prisons' <https://blackstone.edu/types-of-rehabilitation-programs-in-prisons/> accessed 11 June 2025.

⁷⁰P.B.B Murhula and S.B. Singh, 'A Critical Analysis on Offenders Rehabilitation Approach in South Africa: A Review of the Literature' (African Journal of Criminology and Justice Studies, vol. 12 (1) 2019) <https://digitalscholarship.tsu.edu/ajcjs/vol12/iss1/12/> accessed 11 June 2025.

⁷¹J. I. Tobi-Mulero, 'Evaluating Non-Custodial Punishment As Alternative Measures To Custodian Punishment in Combating Crimes' UNIPORT Law Review Vol.9(1) 2025, 202-204

⁷²In April 2025, the Government of Borno State, North East Nigeria announced the reintegration of over 300,000 repentant boko haram terrorist. I. Ojo, 'Borno Resettles 300000 Ex-Boko Haram Terrorist' Punch Newspaper 29th April 2025 <https://www.google.com/amp/s/punchng.com/bor-no-resettles-300000-ex-bokp-haram-terrorists/%3famp> accessed 4 July 2025.



sentencing, but do they take the place of the court in determining the guilt or innocence of an alleged offender? Does reformation and rehabilitation take away liability for the alleged crime? This paper posits that rehabilitation and reformation help in ensuring that a convict is redeemed and should not be applied in the stead of a criminal trial. There have been several reformatory programmes for suspected and convicted criminals by previous administrations in Nigeria and the extant programme by the Federal Government is the Deradicalisation, Rehabilitation and Reintegration (DPR) Programme (Operation Safe Corridor)⁷³. It entails collaboration by different Federal Government Agencies to ensure the re-orientation of the repentant offenders. The programme employs a non-military approach and is suitable to convert offenders who were forcibly conscripted into the terror group.

However, what are the indices for determining that an offender has repented and is there any guarantee that the reformation would be successful and not temporary? Are the root Causes of the crime still existing? What about the impact on the victims of the crimes, when they find an offender roaming freely without any punishment? What category of crimes should reformation and rehabilitation be attached to? Indeed, reintegration of offenders into their communities is important but communal acceptance poses challenges.⁷⁴ While reformation and rehabilitation are important, the impact on the victim and society is also important. Also, reformation and rehabilitation are not an alternative to trial and conviction. The practice in Nigeria of receiving repentant Boko Haram offenders needs to be reviewed. Reformation and rehabilitation should be introduced after the conviction by a Court of Law as practiced in other climes.

4. CONCLUSION AND RECOMMENDATIONS

This work has assessed crime commission in societies; the meaning and causes of crime; and the theories or reasons behind the punishment of offenders, such as restitution, retribution, deference, and incapacitation, and argues that emphasis should be placed on reformation and rehabilitation of offenders. There is a need for a paradigm shift from punishment to rehabilitation and reformation of offenders to reintegrate such offenders into societies. It argued that punishments, such as the death penalty, imprisonment, and incarceration of offenders cannot holistically address the issue of crime commission as so many offenders leave the prisons or correctional centers to become hardened criminals in society. It is submitted further that efforts should be intensified towards rehabilitation and reformation of convicts or offenders as this would tend to reduce crimes in the society. There is no doubt that there is a paradoxical growing trend highlighting the importance of rehabilitation and reformation as the alternative to punishment of offenders. This has equally been recognized and acknowledged by international law as re-socialization seems to be gaining credence as a right of the offender.⁷⁵ If an offender remains a citizen of a country, it behooves the state to protect his rights. And one of those rights is to ensure that he is reformed and rehabilitated during and after his incarceration to enhance his integration into society. It has equally been argued that efforts geared towards reformation of offenders and society have been an age-long idea since the major idea of the study of crime or criminology is to reform the criminals or offenders. This is not to say that reformation and rehabilitation of offenders would curb the gamut of criminality but it seems that the pendulum in modern-day criminology is favourable to rehabilitative and reformatory parameters against the imprisonment or death punishments which have been on the popular side.

Having deliberated on this, the following recommendations were made:

1. There should be a paradigm shift from total imprisonment to rehabilitation and reformation of offenders so they can be useful to society when they are done with their punishment.
2. There should be a proper definition of the principles for practicing reformation and rehabilitation.
3. Rehabilitation and reformation after conviction should be made mandatory across the globe every prisoner must have something to do during and after their incarceration in the prison.
4. Offenders should be made to acquire skills or education while in prison or correctional centers.
5. There should be adequate medical examination of offenders before sentencing.

⁷³T. J. Ike, D. Singh *et al*, 'Rethinking Reintegration in Nigeria: Community Perceptions of Former Boko Haram Combatants' <https://tinyurl.com/4n9xdw5> accessed 4 July 2025.

⁷⁴*ibid*

⁷⁵M. Pifferi, 'The Historical Origins and Evolution of Rehabilitative Punishment' (University of Chicago journals, Crime and Justice, vol 53 No. 1) <https://www.journals.uchicago.edu/doi/10.1086/733432> accessed 11 June, 2026.



6. Government should ensure the monitoring of offenders behavioural tendencies from time to time, thus, proper record keeping of offenders is very necessary for every society.
7. Lawyers, criminologists, psychologists, sociologists, and medical experts should be involved in the investigation and prosecution of offenders.
8. The right to rehabilitation and reformation of offenders should be enshrined in the constitution of every country.

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