



ADDIS ABABA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE
CENTER FOR HUMAN RIGHTS

Reality or Myth: Rehabilitation of Prisoners in Federal Prison of Kality

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Declaration

I Mulugeta Belay Kiberet, hereby declare that this thesis is original and has never been presented in any other institution. I also declare that any secondary information and materials used have been duly quoted and acknowledged in this thesis.

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List of Abbreviations

FPK: Federal Prison of Kality.

SMRTP: United Nations minimum Standards of a prisoner.

CCOE: Criminal Code of Ethiopia.

Abstract

Today many countries in the world are trying to change their philosophy of punishment. As such, incarceration, directed towards mere confinement, is being replaced by rehabilitation, demonstrating a major paradigm shift. Scandinavian countries in particular are successful in establishing this approach, which emphasizes the effectiveness of rehabilitation in helping to reduce recidivism. The prisons also speak a lot about rehabilitation. They name their prison ማረጋገጫ (Maremiya bet) and invest a lot in rehabilitation activities. However, they remain places of punishment. This thesis addresses theoretical as well as conceptual queries about rehabilitation in its broadest sense. Moreover, based on relevant empirical data, it explores why rehabilitation is not effectively implemented in FPK prison. By conducting observations and interviews, it attempts to identify the problem specific to the FPK. Also, it points out the role rehabilitation would play towards the reduction of recidivism. Finally, enduring challenges as well as concrete measures that should be taken by key stakeholders, to address these challenges, have also been spotted.

Keywords: Crime, Prison, Rehabilitation

CHAPTER ONE

INTRODUCTION

Every society has its protection mechanisms to safeguard its members from harm. Society uses assorted protective mechanisms such as custom, religion, and other social norms to shield its members from any form of harm. By the same token, modern society enforces laws as a tool to protect its members from being victims of acts of wrongdoing. Punishment is used as an instrument to protect the public from crime, which at the same time, in addition to its immediate harm, is a threat to the continuity of a given society and ultimately its very existence.¹ However, the issues that need to be addressed here are, what kinds of punishment should a society administer to protect itself? What should be the purpose of that punishment? Should it be that of revenge or should it focus on the incident or the deviant? Regardless of a given case, the Ethiopia legal systems uphold the principle of rehabilitation of deviant as its major purpose of imposing punishment.² Nevertheless, some laws contradict this fundamental purpose of the legal system not to mention the fact that the organization of our prisons is not appropriate to achieve this purpose of punishment. They are merely used as a place to restrict the liberty of convicts. In other words, there is this widespread consensus that they cannot be regarded as facilities organized in such a way to effectively ensure rehabilitation of those incarcerated thereby reduce the incidence of recidivism.³ Kality one of the high-security federal prisons of Ethiopia is not an exception.

This paper mainly intends to assess the effectiveness and efficiency of rehabilitation activities being carried out in the Kality high-security Federal Prison of Ethiopia. The paper, furthermore, will discuss the definition of punishment, its historical development, and its prime purposes. Furthermore, it will also comprehensively address rehabilitation as one of the integral parts of the purpose of punishment particularly within the context of the Ethiopian legal system. Moreover, it highlights some factors that cause criminal behavior and the instrumental value of rehabilitation in addressing such persistent challenges of the Ethiopian Criminal Justice System. Additionally, briefly covered are other important elements of rehabilitation; parole and pardon. Varied sorts of problems surrounding

¹ Nahum Fasil, (1982), "*punishment and society, a development Approach*", *Journal of Ethiopia law*, V.12page 122.

² The preface of Criminal code of Ethiopia.

³ Personal observation.

rehabilitation, that at the same time, hinders efforts to realize the objectives of punishment envisaged under the criminal justice system, are also assessed. Finally, the research proposes concrete recommendations considered crucial for addressing the prevailing challenges by duly considering the major findings and conclusions of the research.

1.1. Background of the Study

In many countries, the prison population is high and has risen significantly since the 1990s⁴ and Ethiopia is not an exception. The main reason that brought criminal law into existence is the need for the protection of society from crimes.⁵ Indeed, incarceration has been the main solution to the ever-increasing problem of crime.⁶ Ironically, contrary to their purpose, prisons remain factories of crime. Consequently, this inevitably calls for a resort to measures such as suspension instead of execution.⁷ In this regard, many countries have incorporated such type of measures in their criminal justice system.⁸

The principal objective of rehabilitation is to address the very issue that entails criminal behavior in the first place, and consequently minimizing recidivism.⁹ This ultimately benefits the community by protecting it from potential harms inflicted by criminal actions and creates favorable conditions for the reintegration of offenders.

As most prisoners serve determinate sentences and will eventually be released, the purpose of imprisonment is to reduce future criminality by ensuring, as much as possible, that the offender can lead a law-abiding and self-supporting life upon return to society.¹⁰ In this sense, successful reintegration results in the reduction of criminal tendencies and therefore contributes to promoting peaceful and inclusive societies for sustainable development. The continuous incarceration of inmates for determinate sentences leads to a continuous flow of people being released. As such, there would be a need for the integration of these former prisoners into society, often after having served terms in prison. In this regard, looking at the

⁴Jenni Gainsborough and Marc Mauer(September 2000), ”*Diminishing Returns: Crime and Incarceration in the 1990s*”,Page 3

⁵The preface of The criminal code of Ethiopia.

⁶UN Office on Drugs and Crime, New York (2006),“*Alternatives to Incarceration Criminal Custodial and Non-Custodial Measures (Criminal Justice Assessment Toolkit*”, p.1.

⁷ShewitKahsay, “*Community-Based Rehabilitation Of Offenders: An overview of probation and parole in Ethiopia*”, *HUJL, Vol.1 No.1*. page 17

⁸ Ibid.

⁹ Ibid.

¹⁰ Michael N.khwela, *a need to re-integrate prisoners to the community’s case of polokwane medium b prison;*, *Athens journal of social sciences- vo 1,issue2-* page 145-156,p 147.

human rights dimension related to the issue being discussed, Art. 10 of the ICCPR provides that the penitentiary system should comprise of treatment of prisoners, the essential aim of which shall be their reformation and social rehabilitation.

Most Sub-Saharan African countries, including Ethiopia, have overcrowded prisons.¹¹ This is partly attributed to existing legislation and sentencing policies that overemphasize imprisonment as a major mode of punishment.¹² In the context of Ethiopia, the current Ethiopian Criminal Code incorporates rehabilitation as the main purpose of punishment. As such, different provisions of the Criminal Code deal with rehabilitation and re-integration matters. Numerous issues surround the notion of rehabilitation. It is worth noting that the Ethiopian criminal justice system does not take rehabilitation as the sole purpose of punishment. However, be this as it may, as the preface and many articles of the criminal code indicate, the system gives special emphasis to reformative than that of punitive justice. As it is evident in our history of the prison, the name assigned to a prison in our country was changed from previous names such as ጅሜ (Jemie) ከርቼሌ (kerechele) አለምባቃኝ (Alembekage) into ማረሚያቤት (Maremiya bet).¹³ Based on the historical fact one may deduce that the reason behind changing the name of penal law into the Criminal Code, infer the due emphasis that the criminal code has given for the issue rehabilitation in defining the purpose of punishment.¹⁴

For this very reason of inconsistency, the effectiveness of rehabilitation in our prison needs to be examined and studied. The challenges and the implication therein need to be explored to address the ongoing concerns of rehabilitation and with the view of devising a mechanism to overcome the challenges. Rehabilitation that is persistently neglected, particularly at implementation levels yet very crucial aspects of our criminal justice system, needs to be explored based on existing empirical data.

1.2. Statement of the Problem

As we can infer from the preface of the criminal code, article 1,106,108,111,117,158,162,177 and other relevant legal regimes, such as Proclamation, No 1174/2019, rehabilitation is, indeed an issue that is significantly considered in the criminal justice system of Ethiopia. However, there seems to be a huge discrepancy between rhetoric and practice. To begin with, the fact that the death penalty proclaimed as one mode of punishment is a legislative problem

¹¹ Andargachew Tesfaye, (vol. 2, Addis Ababa 2004) *“The Crime Problem and its Correction”* p. 321.

¹² Ibid.

¹³ Personal observation..

¹⁴ The preface of the criminal code of Ethiopia of 2004.

as entails fallacy with the essence of rehabilitation. The other problem attributes to the prison itself. Though rehabilitation is a vision sought to be realized in prisons, they nevertheless still serve as a place of punishment.¹⁵

Rather than rehabilitating the offender, they often become grounds to equipped him for another crime. Ethiopia has invested a lot in prison to ensure a decline in crime rates thereby overcrowding of correctional facilities.¹⁶ It also needs to be pointed out that, as one can observe, rehabilitation programs in some prisons that are far from adequate. Policies, programs, institutional infrastructures, and related facilities, which duly take into consideration the principal objectives of our criminal justice system concerning punishment, are still non-existent in most of our correctional centers.¹⁷ It also seems that the issues of rehabilitation and reintegration are not sufficiently emphasized by responsible government organs.

In particular post-release rehabilitation and re-integration programs, for former prisoners, are not implemented up to the required attention by all pertinent stakeholders including the main responsible organ of the government which is the federal attorney general, federal prison administration. The same applies to stipulations of the criminal code that underscores the need to establish and operate institutional arrangements for post-release rehabilitation and reintegration of former prisoners.¹⁸

Apathy to the objectives of punishment under our criminal justice system starts with our judiciary. The judiciary, despite an array of alternative modes of punishment that suits to the principal objective of the criminal justice system, namely rehabilitation and reintegration of offenders, usually prefer incarceration as a principal mode of punishment. This, by itself, has its negative impact. For one thing, it creates jail overcrowding and makes them places of punishment only. Another fact, about the country's prisons, is that they host more than their capacity. This, in turn, exasperates the problems in the prisons where inadequate rehabilitation programs remain formidable challenges to reform offenders. Second, there is a shared conception towards imprisonment, that a convict will ultimately be reformed and become a law-abiding citizen. However, in what it seems contrary to the said shared notion, to the

¹⁵ Personal observation.

¹⁶ Personal observation of financial statmenet of Kality prison..

¹⁷ Personal observation.

¹⁸ The preface of Crminal code of Ethiopia and Personal observation.

best knowledge of the researcher no re-integration strategies and programs are put in place in most correctional facilities of the country. It is a fact of life that the world is in continuous change and transformation especially owing to innovation and technological advancement. Post-release encounters would, therefore, be surrounded with challenges that make efforts, by former prisoners to reunite and reintegrate themselves into entirely different societal setups a, challenging experience. These are also the main reasons why most former prisoners consider themselves to be only fit for institutional life and/or end up recidivists. The implication goes far to the extent of exacerbating families' hardship regardless of the convict being the breadwinner or not. Concomitant to this, ex-cons are often prone to desperation in the sense that they will face difficulties in finding jobs for several reasons.

To mention some, they lack the required skill and finance. Hence, making them have the necessary skill while they are in prison will help them to have both skill and finance, and in some cases, potential consumers. The other point, which should not be overlooked, is the fate of criminals. One may wonder what happens to the after serving the necessary prison time and where do they end up? What would be the fate of someone who served the maximum imprisonment period, i.e., 25 years, when finally released from such a long year's confinement? How does the system deal with the wrong convictions? The paradox here is that the country lacks a compensation scheme in times of wrongful conviction. As noted above, the Criminal Code designates a handful of provisions that stipulate that 'when the need arises, criminals may be admitted to corrective institutions'. However, the practice, in reality, reveals an awkward experience that deviates the essence of the provisions in the Code. On the other hand, we need to enquire as to who is responsible for follow-up behaviors and actions of ex-convicts and certifies to the court that the criminal went as required by the latter. This is especially true for criminals released on parole and probation. The other point worth raising here is the issue of identification of the organ or an institution in Ethiopia with a clear mandate to help criminals after a release to acquaint easily with society. Who is responsible to assess and determine whether they have been rehabilitated? Unless all these fundamental post-release issues are properly answered, achieving the main goal of the criminal justice system, that is the protection of the peace and security of the public, will be nothing more than a futile endeavor.

Moreover, physical facilities as well as the expertise required for ensuring effective rehabilitation and reintegration seems to be far from adequate and even unavailable in most

of the correctional facilities and detention centers. To be more specific on this issue, it was noted during the research, that professional staff such as social workers, psychologists, psychiatrists are non-existence or not sufficiently available with the required proportion of the number of inmates incarcerated in the correctional facilities. Some institutions, proposed under the criminal code of Ethiopia to realize the agenda of rehabilitation have not been established to date. Despite the huge financial resources regularly allocated from government coffers to the prison administration, it seems we are way too far from achieving the purpose of punishment under our criminal law. Thus, these and other many more concerns call for the need to explore the discrepancy between rhetoric and actual practice of the fulfillment of the purpose of punishment. To this end, the reason behind this discrepancy shall be a subject of empirical study.

1.3. Objective

1.3.1. General Objectives

The main objective of the study is to examine the implementation of rehabilitation, in Kality Federal Prison, in contrast with the essence of rehabilitation promulgated in the laws of the country.

1.3.2. Specific Objectives

The study has the following specific objectives:

- Evaluating the performance of the current rehabilitation program in the Kality Federal Prison.
- Examine the availability as well as the effectiveness of post-release rehabilitation and reintegration policies and programs in Federal Prisons, in general, and in the FPKin particular
- Exploring concrete measures taken so far and those that should be taken by all relevant stakeholders towards ensuring the attainment of effective rehabilitation in the prison.

1.4. Research Questions

1.4.1. Central research question

To attain the above research objectives the research will answer the following central research question.

How is rehabilitation being implemented in the Kality Federal prison?

1.4.2. Specific research questions

For an in-depth investigation of the subject of this paper, the central research question is further divided into specific questions that are deemed to have an essential contribution in answering the central research question. Consequently, this research paper attempts to answer the following specific research questions.

1. What national policies and legislative frameworks are put into operation to realize the rehabilitation of offenders under our criminal justice system?
2. What mechanisms, in terms of institutional infrastructures and related facilities as well as personnel, are put in place at the FPK to facilitate the transition from prison to society?
3. What kinds of rehabilitation programs are available practically? Moreover, are they effective?
4. What challenges do prison officers of FPK encounter in their efforts to put in place normative standards applicable to rehabilitation and reintegration?
5. What policies and programs as well as institutional mechanisms are there to ensure post-release rehabilitation and reintegration of former prisoners?

1.5. Significance of the study

Punishment has been used as an instrument to protect the public from crimes. The overall objective of criminal law is safeguarding society from harm inflicted by crime against the health, safety, life, and welfare of its members. However, there is also a need to enforce the right punishment to achieve the goal that is proclaimed under the preamble of our criminal law. Therefore, researching the topic would have both theoretical and practical significance by indicating the right punishment and its implementation to achieve the goal of the criminal code.

1.5.1. Theoretical significance

Even though (rehabilitation) is one of the most important issues to be examined and assessed in prisons, the issues related to the Rehabilitation of prisoners in federal (Kality) prison remain unexplored and rarely researched in Ethiopia. There needs to be clear knowledge and

a specific framework for effective rehabilitation program implementation. Any solution we devise depends on the knowledge we have on it. Hence, the research is qualitative; it explains concepts on the issue. For this reason, it is believed that this research will add to the limited knowledge in the area and therefore, theoretically assist filling such gaps.

1.5.2. Practical significance

The following could be considered as the practical significance of this paper.

- To the legislature, it will serve as an input to reconsider laws applicable to prison administration and related issues.
- To the executive, it provides evidence-based data for designing and implementation of tailored policies and programs which would ensure effective rehabilitation and reintegration of prisoners as well as addressing persistent challenges in this regard.
- To individuals (inmate), it would create awareness about the importance of rehabilitation and how they can make the best out of rehabilitation and reintegration programs of correctional facilities.

1.6. Scope of the study

It is a fact that rehabilitation involves numerous issues. In this research, however, it is the implementation of rehabilitation in FPK in Ethiopia that constitutes the focal issue to be discussed. As such, it aims at studying the legal frameworks relevant to rehabilitation and assesses the dynamics being seen in the implementation e. In terms of area, the main physical area of the study is Federal Prison Kality Branch

1.7. Methodology

This research adopts an empirical method of research and employs a qualitative approach. Data will be collected through interviews of concerned officials, detainees, and others. Personal observations and focus group discussions will also be undertaken. In addition to the foregoing, literature and domestic and international human rights instruments also be reviewed and whenever it is required, though it may not be a major source of input, a comparative experience might be used as input for the research.

1.7.1. Study Area and Period

As the study is more doctrinal research, while the research may look at some areas, for empirical data, however, the researcher will concentrate on FPK. The study will be conducted from January 1 to August 20, 2020.

1.7.2. Research design

The main purpose of the research is to explore the effectiveness of rehabilitation under the Kality prison. To achieve this objective, the research is made to be primarily socio-legal research. The nature of the problem being explored in the research, the aim of the research, and the nature of the research question that the research seeks to find the answers for, need a deep understanding of the issue. Moreover, it should be bear in mind that the issue rehabilitation is not understood or known since only very few, if not none, researches have been conducted on the issue. For this very reason, it has come necessary, in this research, to explain concepts. Besides, it should be underlined that the research is carried out only through a qualitative approach. Accordingly, for the reasons explained above this research will employ a qualitative approach.

1.7.3. Population and Sampling

The researcher, for the sake of substantiating claims raised in the legal frameworks, has undertaken interviews. Accordingly, inmates, prison officers, social workers, health officers of the prison, selected for this study.

The researcher uses a non-random/non-probability sampling. The primary reason for using this method of sampling is because the selected research approach is a qualitative research approach, which is only possible to conduct with non-random sampling. Secondly, for the reason that the research does not intend to generalize what it gets from the sample. Further to these reasons is that, due to the nature of the subject of the research, the research can only be effective only by employing non-random sampling. However, employing this technique poses a danger of not being representative and generalized. In addition to the non-random sampling technique, the research employs a purposive non-random sampling as it allows the researcher to have the freedom to consider needs in a research project. On the other hand, it enables the researcher to handpick subjects based on specific characteristics attributable to the issue of rehabilitation. For the sake of this research four-focus group discussion, five up to six

members for each group has been organized and around forty inmates interviewed in addition to prison official whose names stated in this research.

1.7.4. Types of data

The primary data are empirical data collected through interviews and document analysis. Whereas, the secondary data includes books, articles, and any literature dealing with rehabilitation in general as well as in the context of the Ethiopian Criminal Justice System.

1.7.5. Data collection method

The researcher has employed interviews and document review analysis guidelines as a qualitative data collection tool. The research objectives that the research needs to attain and the nature of the research questions that the research meant to answer, could only be addressed by employing the above data collection method. Furthermore, the research needs interaction between the researcher and the research participants and this could only be achieved effectively through interviews. Moreover, documents and materials, including instruments of laws have been analyzed to reflect comprehensive aspects of the subject of the research. The researcher opts, from different types of interviews, to employ a semi-structured interview the reason being, a semi-structured interview is flexible in the sense that it gives freedom to the researcher to modify questions and provide clarification to some questions. Hence, there might be a need to give an explanation to the interviewees and modify the questions depending on the backgrounds of the interviewees. In this regard, using a semi-structured interview in this research becomes imperative and plausible.

1.7.6. Data analysis

The researcher use narrative and discourse qualitative data analysis methods. The research uses this method because the required data are collected through qualitative data collection tools, hence, needs to be analyzed in the same way. Accordingly,, firstly organize the data collected, before starting analysis and this involves transcribing interviews, optically scanning material, typing up field notes, or sorting and arranging the data into a different type. Then the next step is to categorize the relevant one to the focus of research by identifying the main theme followed by an interpretation of data. Through the progress of this process, the researcher codes the data and categorizes it into different themes, and then a conclusion will follow.

1.8. Ethical consideration

Throughout the research process, the researcher respect and apply all ethical standards relevant to conducting research.

In particular, before collecting data from the respondents/participants, the researcher has employed and secured informed consent from participants by notifying them of the purposes of the study. The researcher also keep the confidentiality of information collected from participants/organization and shall keep the identities of respondent anonymous, are they enquire so, in communicating the finding of the study

CHAPTER TWO

REVIEW OF LITERATURE

This part of the research seeks to provide insights on some important issues that would be important to understand the broader concept of rehabilitation. Without understanding punishment and its purpose, it is difficult to substantiate rehabilitation as a concept. It must also highlight that discussion of the causes of crime is also equally important to understand the need to implement rehabilitation as a purpose of punishment. Therefore, in this part of the paper, literature related to crime, punishment, and cause of crime are discussed in addition to rehabilitation.

PURPOSES OF PUNISHMENT: AN OVERVIEW

2.1. Punishment: Definitional Exercise

For the existence of the notion of crime, the availability of forbidden conduct and a prescribed penalty is essential. The absence of one of the two may vanish the notion of crime.¹⁹ Who violates the restriction of forbidden conduct is guilty of a crime.²⁰ Accordingly, punishments in this respect are used as a tool to secure the observance of the law.²¹ Without it (punishment) criminal law becomes a toothless lion. Punishment is a counterpart of crime i.e., if someone has done something wrong, a kind of punishment such as loss of life, liberty or pecuniary interest, or other forms of punishment should be imposed on that person.²²

Formulating a precise definition of punishment might be difficult. However, most authors dictate more or less the same definition for the term. Barlow in his book of Introduction to criminology defined punishment as:

*Any action designed to deprive a person or persons of things of value because of something that person has done or is taught to have done.*²³

¹⁹ Wayne R. Lafave and Austin W. Scott, Jr, (1986) “*criminal law*”, P.9

²⁰ Id.P.10

²¹ Richard G. Singer and Martin R. Gardner,(1989), “*Crime and Punishment cases materials Readings in criminal law*” P.47

²² Philippe Graven, Addis Ababa, Faculty of law , “*An Introduction to the Ethiopia Penal law*”, (1965) P Page.6.

²³Hugh D.Barlow, (1978), “*Introduction to criminology,*” Page.439.

Valued things may refer to freedom, civil right, money, health, identity, personal relationship, and life of the offender.²⁴

These are usually unpleasant punishments²⁵ imposed for the crime committed by him/her or for his/her the authority of the law and judgment and sentence of a court must impose omission of obligation stated in the law and the penalty.²⁶ Black's law dictionary defines it (punishment) as:

*A sanction such as a fine, penalty, confinement, or loss of property right or privilege assessed against a person who has violated the law.*²⁷

Regardless of the case, punishment is the surrender of right or advantages consequential to a breach of the law. If the losses of these qualities result from breach of law or arbitrary act, it would not be a punishment but rather it would be a bad social effect.²⁸

All of the above definitions have elements that they share.²⁹ This shared element in the definitions referred to above is that the assertion of punishment. It must be painful or other consequences that are unpleasant; it must be applied for the violation of legal rule; it is applied only on an offender for his offense; it is intended deprivation; it must be levied and implemented by an authority established by a legal system.

2.2. Punishment and its Historical Development

Punishing a man, who has done something, with his pecuniary interest, his life, and his liberty is as an ancient norm as mankind.³⁰ Early in the twentieth century, the law of Hammurabi, similar to the law inscribed in the Bible, a kind of punishment with the doctrine of the eye-for-an-eye was developed. The law enforces retribution-based punishment in which; if a man destroys the eye of another man, his eye would also have to be destroyed and if a man breaks a man's bone his bone would also need to be broken.³¹

²⁴ Ibid

²⁵ Eugene Mehavghlin and JognMunie, (2001) , “*Controlling Crime*”, Page 204

²⁶George.E.Rush, (2000),”*The Dictionary of Criminal Justice*” Page 275

²⁷Henry campellBlack, (2004), “*Black's law Dictionary*”, Page 1269.

²⁸ Ibid.

²⁹Hommas .W.Simon, (2001) , “*Law and philosophy An Introduction With Reading*”, Page.450

³⁰ Graven, op,Cit.,Page 6

³¹ Simon, op,cit.,Page 451

Before the Romans developed the prison system and even before they settled and built the city and state of Rome, Roman offenders were penalized primarily by being sentenced to hard labor for a certain period of life while the Goths, a nomadic Germanic people, punished criminals by banishing them to the jungle to live and nature his fate to be at the mercy of the jungle. In Germany, from the fifth to the eleventh centuries, it was customary for the victim's family to avenge the death of the family member by killing the murderer within a certain period and in the event, the family fails to kill the murderer the death sentence becomes void and unenforceable.³²

In Europe, after punishment becomes a business of the state, it began to be harsher.³³ Convicts of law-breaking who are sentenced to death were hanged, burned at stake drawn and quartered, boiled and broken on the wheel, and torn by red-hot tongs. In cases of less severe punishment than the death penalty, prisoners were branded, dismembered, flogged, and tortured.³⁴ In the sixteenth century, the so-called galley slavery was developed in England in which the prisoners were sent to the fleets of Italian cities as galley slaves. It was merciful punishment than death, but prisoners were chained crowded, exposed to harsh weather conditions, and fed on hard rations. They were not just doomed to serve as a galley slave but they were sent to their death.³⁵

To supply rulers with cheap workers, offenders became slave labor under a form of punishment called imprisonment. The old English castle of Birdwell became a place of occupation or a place of correction with the main function of imprisonment to make offenders an important member of the community, through hard labor and religious worship.³⁶

Transporting prisoners to the colonies and forcing them to work for the establishment of towns and plantations was another form of punishment. In the eighteenth century, in England, two thousand convicts were arriving in American colonies each year while another one hundred thousand prisoners were transported to Australia.³⁷

³² Freda Adler, Gerhard O.I, Mueller and Williams.Loufer: "*Criminology*", (1995) Page 478.

³³ Ibid

³⁴ Id. Page 479

³⁵ Ibid 18

³⁶ Id. Page 480

³⁷ Sue Titus Reid, (1976), "*Crime and Criminology*", Page 4

In today's world physical detention, fines and probation have become the mode of punishment,³⁸ a punishment less inhuman and contrary to the modes of punishment in the past, such as torture, branding, and different other forms of public humiliation, maiming, transportation, banishment, mutilation, loss of property, sterilization, corporal punishment, etc.

From the above historical overview, modes of punishment included death, banishment, transportation, imprisonment, mutilation, branding, flogging, fines, community service which can be categorized, as official criminal penalties which is a kind of punishment authorized by the law; Extralegal penalty and illegal criminal penalty which is illegal by itself, e.g. torture, mutilation, flogging.³⁹

We can also categorize punishment as a deterrent, preventive, reformatory, and retributive.⁴⁰ According to the objective or purpose of punishment, it can be enforced to prevent the offender from the future crime, to change the character of the criminal tendency, or to fulfill the interest of the community sense of retaliation accordingly.⁴¹

2.3. Purpose of Criminal Law

Criminal law should be enforced consistent with the purpose for which it has been adopted.⁴² In retrospect, this is to say that criminal law is needed to have purposes or objectives that it intends to achieve. The immediate objective of criminal law is safeguarding society from harm and in its broader sense, to protect damages to the health, safety, morals, and welfare of the society at large.⁴³ Discouraging and preventing people from committing an offense, protecting the society from danger and harm, punishing, rehabilitating, or reforming offenders, are purposes and objectives of criminal law that are the most shared and agreed upon.⁴⁴

Critical readings of criminal laws shed a light on understanding the different purposes of criminal law. On one occasion, the US District Court explained the goals and purposes of criminal law as follows:

³⁸ Barlow, op. cit., Page 440

³⁹ Ibid

⁴⁰ Black, op, cit., Page.1270.

⁴¹ Ibid

⁴² Michael J. Allen and Wayne R. Lafave(1996),*Text Book on criminal law*, Page 3.

⁴³ Austin W. Scoh, Jr,(1986), *criminal law*, Page 10.

⁴⁴ Thomas. J. Gardner and M Anderson, (2003),*Criminal law*, Page 21

*The object of criminal law is to protect the public against the depredation of the criminal. On the other hand, its purpose is also to prevent the conviction of the innocent or the conviction of the person whose guilt is not established beyond a reasonable doubt. The court must balance all these aims of the trial.*⁴⁵

Criminal law, in particular, has the objective of protecting vulnerable groups of the society that includes the young, who are not fit, strong in body or mind, or inexperienced or those who are officially recognized for their physical or economical dependency on others. These groups of society need the protection of criminal law that armored with the threat of punishment.⁴⁶ Criminal law makes the game a fair one between the strong and the weak for the simple and obvious fact that the former fear the punishment that might follow any act that deviates from the law. In this sense, criminal law tries to achieve all of the above goals in two ways.⁴⁷

2.3.1. Due notice of the offense

The criminal law tries to show the people the boundary of legitimate activities,⁴⁸ by providing or specifying those activities that are prohibited by the law. It calls the society's attention to the laws, the violation of which is considered as a crime. These help to acquaint people with the law, to refrain from illegal activities, and to understand no excuse or ignorance of the law does not serve as a defense.⁴⁹

2.3.2. Due notice of the penalty

Another mode of approach, upon which criminal law can serve its purpose, is a due notice of the penalty. Unlike moral prescriptions, criminal prescriptions have immediate and tangible consequences that follow, if they are not respected.⁵⁰ The jotting down of penalty clauses helps the people to predict the consequences of infringement of the criminal law.⁵¹ Criminal law informs the people of what would happen to them if they fail to respect the law. In doing

⁴⁵ Ibid.

⁴⁶ Allen and Lafave.Op.cit., Page 3

⁴⁷ Graven, op, cit, P.6

⁴⁸ Ibid.

⁴⁹ Allen and Lafave.Op.cit., Page 3.

⁵⁰ Graven, op.cit., Page 6

⁵¹ Ibid.

so, criminal law tries to protect the disruption of order, peace, and security of the community from potential offenders.⁵²

2.4. The Justification for Punishment

As outlined in the preceding paragraph, criminal law is backed with punishment as insurance of its observance. In this regard, it would be reasonable to note that, though it is almost universally understood that punishment also needs to have its purpose it intends to achieve yet purpose or justification of punishment is an area of continuing controversies and disagreement in criminal law. No purpose of punishment is without those who challenge it.⁵³ Legislators of criminal law are always confronted with the challenge of the justification of punishment. What purpose that punishment must serve? Should they focus on the incident (act), on the victim, on the deviant, or on the general expectation of society to solve the problems?⁵⁴ This also creates another controversy. In effect, we can say that the arguments regarding the justification of punishment are based on emotion, faith, and hope instead of empirical evidence.⁵⁵

In any case, theoreticians offered different kinds of approaches to justify punishment. The justification of punishment can be retribution, deterrence, prevention, incapacitation, rehabilitation, or a measure mixed with these intentions. However, we can categorize the justification of punishment into three. One is retributive which focuses on acts as the means for justification in themselves, dictating that actions are morally right without consideration of their ultimate effects on others. The second one is the utilitarian approach in which actions are considered morally right if, but only if, they result in desirable consequences.⁵⁶ The last one is universalism which is a mixed system of the above two approaches.

2.4.1. Retribution (non-consequentiality approach)

This theory is an old approach. The basis of this theory is a specific penalty for a specific crime. This specific punishment is justified when the offender has suffered a pain that showing the gravity of his crime. However, it is difficult to proportionate punishment with

⁵²Allen and lafave.Op.cit., Page.3

⁵³Graven.Op.cit., Page.6

⁵⁴Simon op.cit., page.464.

⁵⁵Nahum fasil, (1982), "*punishment and society, a development Approach*", *Journal of Ethiopia law*, V.12page 122.

⁵⁶Reid, op cit.,Page.19.

that of the offense. The proponent of this theory stated that to make the punishment fit with that of the crime, the following can be used as a yardstick:⁵⁷

Making the penalty mirror the offense itself which, known as *lex talionis*, the eye for an eye principle.⁵⁸ It is similar to the code of Hammurabi's. For example, a bad builder was subjected to the same grief the owner suffered through the loss of a son. The interest, in this case, is to make the offender equally suffer as the victim had; to vary the harshness of punishment based on the harm which the society sustained; connect the penalty to the moral outrage or indignation felt by a majority of the community, is the essence of the punishment.⁵⁹ In this regard, Immanuel Kant stated that;

*Any undeserved evil that you inflict on someone else among the people is one that you do to yourself; if you vilify him you vilify yourself; if you steal from him you steal from yourself; if you kill him, you kill yourself; only the law of retribution (jus-talionis) can determine exactly the kind and degree of punishment.*⁶⁰

No one should benefit from his wrongdoing. Based on this, the community is entitled to punish those criminals who deserved to be punished and it has to do so. But it is only that of the offender will be the subject of penalty. This means the offender is punished when he deserves it If not he does not i.e., No Penalty without capability.⁶¹

Retributivist asserts that the only ground to justify punishment is the appropriateness or if only the offender deserves it, even if it has no positive effect. It contrasts with the utilitarian approach that tries to justify punishment, on the ground whether or not a punishment serves an overall social benefit.⁶²

The opponent is of this theory state that it is difficult to decide actual punishment for an actual crime for certain types of offenses like robbery, rape, etc whereas of the utilitarian argument that the intended infliction of pain is nothing and cruel if it does not serve the public interest and it is irrational because it is based on emotions such as anger failing to take

⁵⁷Joshua Dressler,(1995), *Understanding criminal law*

⁵⁸ Ibid

⁵⁹ Ibid

⁶⁰Sanford Erkadish: 1951, *criminal law and its process cases and material*, page103

⁶¹Allen and Lafave: op.cit., page.26.

into consideration other reasons. Furthermore, they argue and it glorifies anger and legalized hatred.⁶³

Some forms of retribution can be assault retribution Public vengeance, or societal retaliation. This is based on the principle that it is morally right to hate criminals. Another form of retribution can be protective retribution in which punishment is used as a means of protecting a moral balance in the society.⁶⁴ The third version of justification retribution is victim vilification that punishment is a way to right a wrong.⁶⁵

2.4.2. Deterrence

It is the utilitarian approach that the very purpose of punishment is to stop future offenses.⁶⁶ Because people fear punishment the prospective offender may abstain from committing a crime and when you punish the offender it affects his interest or motive to commit further crime because this punishment has an unsavory consequence for the criminal.⁶⁷ Potential offenders mostly compare the benefit that they will get out of the crime they want to commit and the cost of punishment that is accorded to it.⁶⁸ There are two types of prospective criminals.

The first type is those who have experienced criminal penalties for the offense they did in the previous time. When offenders of this class abstain from a further criminal activity because of their fear of punishment, this way of deterring criminals is called specific or individual deterrence. The purpose of this punishment is to deter an offender from repeating his action.⁶⁹

The other way of deterring potential offenders from committing a crime is general deterrence. Offenders who have not experienced criminal penalties may be deterred from crime by the fear that they might incur a punishment already experienced by others. The purpose of this punishment is to give a lesson to the rest of the community.⁷⁰ In one case a judge expressed general deterrence as follows in his communication with the accused.

⁶³ Dressler, op.cit., page.16

⁶⁴ Id.P,12

⁶⁵ Id.p.13

⁶⁶ Simon.Op, cit.page.455.

⁶⁷ Salzburg and Diamond, op.cit.page.109.

⁶⁸ Barlow, Op.cit., page.454.

⁶⁹ Id.Page 457

⁷⁰ Ibid.

*You are sentenced to be hanged not because you have stolen a sheep but so that others may steal Sheep ...I don't doubt that your act was inevitable for you have made it more avoidable by others. We propose to sacrifice you or the common good and you may regard yourself as a soldier dying for your country... But the law will keep its promises*⁷¹

The proponent of this theory state that to attain the above purpose, the punishment should be severe when it is compared against the pleasure derived from it i.e., The penalty must be great enough, in comparison with the future' gain from the offense, that a potential offender will consider risk.⁷² Bentham also stated that to have an effective deterrence mechanism penalty should be certain, swifter, and sever. But severity is less significant, than the formers.⁷³

On the other hand, the opponent of the theory of deterrence argues that fear of punishment may not be a justification for deterrence because it is difficult to conclude that general warning would make an impression in all people. The motive for committing an offense may overpower the fear or they act in the belief that they will not be caught⁷⁴ and they may not think about the penalty when they commit a certain crime.⁷⁵ The incensement of crime and recidivism tells us deterrence is not that much effective even if it is not rejected the theory.⁷⁶

2.4.3. Incapacitation

In the previous time, the hand of a thief would be severed to make it physically inaccessible for him to commit his crime again. Physical prevention of offenders from committing a crime is known as incapacitation. By using some modes of penalty it is possible, to render offenders from committing a crime by putting them in a condition in which they no longer able to commit offenses and help to protect the community from crimes. Though incapacitation is possible to reduce or eliminate the capacity of an offender to commit a crime, it has is won drawbacks.⁷⁷

Incapacitation became absolute when an offender is executed as in the case of the death penalty and life imprisonment but it is relative in the case of other modes of penalty like

⁷¹ Reid.Op.cit.,Page 4.

⁷²Simon,Op,cit.,Page 459.

⁷³Barlow,Op.cit.,Page 459.

⁷⁴Graven,Op,cit.,Page 6.

⁷⁵Barlow.Op.cit.,Page215.

⁷⁶Id.Page.216.

⁷⁷Id.Page.214.

imprisonment. Be this as it may, it is difficult to say incapacitation could be used as a perfect means of prevention of crime. For instance, even in capital punishment, the offender might still commit a crime until that of his actual execution and in case of imprisonment, he may commit Homosexual rape.⁷⁸

Some opponents also argue that imprisonment creates an opportunity for the offender to rationalize a crime, learn from other techniques of crime and defense in front of the court and this helps them to have a more calculated approach to fulfill their criminal activity.⁷⁹ Others also argue that incapacitation may encourage life imprisonment and the death penalty due to the effectiveness of both punishments to implement the purpose of incapacitation.⁸⁰

2.4.4. Rehabilitation

This approach has a forward-looking quality. It gives particular focus on the offender by changing punishment from its negative outcome in reforming the offender. By using all the skills and knowledge of modern behavioral science, it is possible to reinstate the offender into the community successfully. This purpose of punishment is based on the notion that offenders are sick so curing them of their sickness and reinstating them to their original position is possible.⁸¹ This, in turn, is justified with the conclusion that when criminals commit a crime their act is determined by external and internal forces, which are beyond their control.⁸²

In short, this approach is based on three fundamental elements. The first is individualization-focus which revolves around the offender, not the crime. The second is the indeterminacy-release of offenders whereby they are successfully cured without considering their sentence. The last one is the idea that discretion makes flexibility in the treatment of criminals.⁸³ The detail about rehabilitation and factor causes for crime will be discussed in the separate section under chapter two.

Most arguments on the purpose of punishment are based on the priority of one purpose over the other. For example, some try to prioritize the purpose of punishment as follows. First rehabilitation then others actions, while others give priority incapacitating and rehabilitation

⁷⁸ Ibid.

⁷⁹ Barlow.Ep.cit.p.214.

⁸⁰ TsehayWeda, "*Basic Principles of criminal law*", 1994,page.15

⁸¹ Simon. Op. cit., page.468

⁸² Weda. Op.cit.,page.20

⁸³ Rush. Op. cit.,page.282

next to deterrence.⁸⁴ On the other hand, some people argue that the purpose of punishment is too many to prioritize one over the other. and therefore, they argue that it is better to apply each kind of purpose for the relevant kinds of offenses or acts. Some utilitarian theorists argue that applying a utilitarian approach like deterrence, rehabilitation, and incapacitation for the entire criminal justice system and retribution for specific cases is the appropriate approach in ensuring justice. It is a way of approach that tries to discard the disadvantage of all kinds of purposes and retain the advantage of these purposes.⁸⁵

2.5. Review of the legal framework:

2.5.1. UN Standard Minimum Rules for the Treatment of Prisoners⁸⁶

These international norms, which are generally accepted as being good principles and practices in the treatment of prisoners and management of institutions, are the most relevant international normative standards. It has to be noted, in this regard, that the rules duly acknowledge the existence of various legal, social, economic, and geographic conditions in different countries. However, despite that, there is this unequivocal stipulation in the normative standard that every state shall endeavor to ensure such minimum standards within its state.⁸⁷

The rules cover issues of the general management of institutions that shall apply to all categories of prisoners as well as those that apply to special categories of prisoners. The overarching principle of the rules is that they should be applied impartially without there being any discrimination based on any of the prohibited grounds.

Qualification of prison personnel is the other key feature of the standards. As such it is provided that all prison personnel should, at all times, conduct themselves as well as perform their duties in a manner that influences the behavior of the inmates and command respect for them.⁸⁸ As much as possible the composition of personnel should include sufficient numbers of specialists, namely; psychiatrists, psychologists, social workers, and trade instructors, and some of these staff are to be employed permanently.⁸⁹

⁸⁴ Weda.Op.cit.,Page.2o

⁸⁵ Simon.OP,Cit.,Page .457

⁸⁶ Because it had been adopted in 1957, the standard is revised. As the world is under major development in human rights and criminal justice, it needs a revision. The revised set of rules known as the *United Nations Standard Minimum Rules for the Treatment of Prisoners (The Mandela rules)*).

⁸⁷ Ibid.

⁸⁸ Ibid; Rule No 48

⁸⁹ Ibid; Rule No 49

In the part that deals with rules applicable to special categories of prisoners, it is specifically indicated, as a guiding principle, that deprivation of liberty should not, except as incidental justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.⁹⁰ Moreover, it is underscored that though the ultimate objective of deprivation of liberty is to protect the society against crime this can only be achieved if the incarceration is intended to ensure, as far as possible, upon his return to society the offender is willing as well as able to lead a law-abiding and self-supporting life. This, as indicated in the relevant rules, could only be attained through availing all remedial educational, moral, spiritual, and other necessary forms of assistance that are appropriately applied in consideration of the individual treatment needs of the inmates.⁹¹

On the other hand, the treatment of prisoners should emphasize their integration as opposed to their exclusion. As such, communities should be allowed to participate in the rehabilitation efforts of the prison administration. Social workers with the main responsibility of maintaining the integration of the prisoners with family and the wider community should be given the required attention. Furthermore, all the necessary and legitimate steps geared towards ensuring civil interests and social security rights as well as the social benefits of prisoners should be taken by the prison administration.⁹² The treatment of prisoners should also take into account their special needs and should be directed towards their full rehabilitation and reintegration upon their release.⁹³

Classification and individualization of prisoners in light of their characters and facilitating their social rehabilitation is the other key component addressed in the standards.⁹⁴ In particular, the standards stipulate that, after a thorough study of the personality of each prisoner, a program of treatment should be prepared based on the knowledge obtained about individual needs, capacities, and dispositions.

Prison must have common programs that compressively address the problem of prisoners in general, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counseling, physical development, and strengthening of moral character. On the other hand, treatment must also address the personal

⁹⁰ Ibid; Rule No 57

⁹¹ Ibid; Rule No 59

⁹² Ibid ; Rule No 62

⁹³ Ibid; Rule No 66

⁹⁴ Ibid; Rule No 67

needs of individual prisoners. His/her social and criminal history, his physical and mental capacities and aptitudes, his temperament, the length of his sentence, and his prospects after release should be considered.⁹⁵ The purpose of treatment, according to the minimum standard, is to promote self-respect of prisoners and develop their sense of responsibility. It is also if, at the end of the treatment, prisoners' exclusion from the community should be avoided and they should continue to take part in it.⁹⁶

The other most significant feature of the standards pertains to the treatment of the insane and mentally abnormal prisoners. In this regard, the rules stipulate that these prisoners should not be detained in regular prisons and arrangements but rather, they should be transferred to mental institutions as soon as possible. What is more, they should be placed under the special supervision of a medical officer as well as observed and treated in specialized institutions under medical management.⁹⁷ It is also provided that, in collaboration with other relevant agencies, steps should be taken to ensure, if necessary, the continuation of psychiatric treatment after release, as well as the provision of social-psychiatric aftercare.

2.5.2. The United Nations Minimum Standard Rules for the Treatment of Prisoners (the Nelson Mandela Rules)⁹⁸

The Minimum Standard Rules for the Treatment of Prisoners (SMRTP) comprise the universally acknowledged minimum standards for the management of prison facilities and the treatment of prisoners and have a significant influence on the development of prison laws, policies, and practices in the Member States all over the world.⁹⁹ In recognition of advances in international law and correctional science since 1955, revision of SMRTP was a necessity that could not have been overlooked. According to UNODC around 35 percent of the SMRTP have been revised and/or amended.¹⁰⁰

The revised rule also gives special emphasis on the rehabilitation and reintegration of inmates into society. We find the following text which underlined rehabilitation as the purpose of punishment.

⁹⁵ Article 66 of The SMRTP

⁹⁶ Article 61 of The SMRTP

⁹⁷ Ibid; Rule No 82

⁹⁸ General Assembly resolution 70/175, adopted on 17 December 2015.

⁹⁹ UNODC booklet on the revision of SMRTP, p.1.

¹⁰⁰ Ibid, p.5.

The purposes of a sentence of imprisonment or similar measures derivative of a person's liberty are primarily to protect society against crime and reducing recidivism. These purposes can be achieved only if the period of imprisonment is used to ensure, as much as possible, the reintegration of such persons into society upon release so that they may lead a law-abiding and self-supporting life. To this end, prison administrations and other competent authorities should offer education, vocational training, and work, as well as other forms of assistance that are appropriate and available, including assistance of a remedial, moral, spiritual, social, and health- and sports-based nature. All such programs, activities, and services should be delivered taking into consideration the individual treatment needs of prisoners.¹⁰¹

Around 9 thematic areas of the SMRTP have been revised. As the revision incorporates many issues that are not relevant to this paper, we shall focus on summarizing issues that are directly related to the rehabilitation of inmates.

According to the revised standard, the following important standards have been incorporated.

- Treat all inmates with the respect due to their inherent dignity and values human beings.¹⁰²
- Take account of the individual needs of inmates in particular the most vulnerable categories of inmates.¹⁰³
- Ensuring the same standards of health care that are available in the community are demonstrated and provide access to necessary health care services to inmates free of charges without discrimination.¹⁰⁴
- Prohibit indefinite or prolonged solitary confinement.¹⁰⁵
- Meet the psychological needs of the inmates.¹⁰⁶

2.5.3. United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)

Among other contributing factors, overcrowding is one factor that poses a challenge for effective rehabilitation and reintegration of inmates into society. Therefore non-custodial are

¹⁰¹ Rules 4 of the Nelson Mandel rules.

¹⁰² Ibid, Rules 1-5 .

¹⁰³ Ibid, rules 109 and 110.

¹⁰⁴ Ibid, rules 24 and 25.

¹⁰⁵ Ibid, rules 36-39

¹⁰⁶ Ibid, rules, 75 and 76

recommended as an important approach in reducing overcrowding. Regarding the non-custodial approach, the UN General Assembly adopted resolution no.: 45/110 of 14 in December 1990, entitled United Nations Standard Minimum Rules for Non-custodial Measures (**The Tokyo Rules**). The resolution intended to promote greater community involvement in the management of criminal justice, specifically in the treatment of offenders, as well as promoting among offenders a sense of responsibility towards society.¹⁰⁷ The resolution also noted the importance of continuing rehabilitation of inmates even after they are released from prison. Some programs non-custodial measures like community services, house arrest, conditional discharge, and restitution to the victim or a compensation order¹⁰⁸ are also other important approaches for the rehabilitation and reintegration process of inmates.

2.5.4. United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)

As international laws dictate that no discrimination against women,¹⁰⁹ rehabilitation should be implemented equally among female and male inmates. As we have discussed in the previous section, the classification and individualization of prisoners based on their characters and facilitating their social rehabilitation is the other key component addressed in the SMRTP. Women inmates have needs that are not the same as those of men. A prison should give recognition for these special needs of women in terms of their management style, assessment and classification, programs offered, healthcare, and the treatment of women with children.¹¹⁰

Women inmates are usually discriminated against because prisons and prison regimes are managed to have in mind the needs of the male prisoners which are almost always the majority of any given prison population.¹¹¹ Besides, due to their small numbers, women often do not have access to rehabilitation programs of a prison. Subsequently, it proves to be difficult to practically apply many of the rules included in SMR, unless affirmative action is taken by prison administrators towards ensuring women prisoners have equal access to all services and rights that male prisoners enjoy.¹¹² On the 21st December 2010, the General

¹⁰⁷ Article 1 of The resolution.

¹⁰⁸ Ibid, article 8 of the resolution

¹⁰⁹ Article 2 of United Nations Convention on the Elimination of All Forms of Discrimination against Women.

¹¹⁰ UNODC,,Handbook for prison managers and policymakers on Women and Imprisonment, newyork,2008, accessed on : Oct,1, 2020. [online] availabl. P,25

¹¹¹ Ibid.

¹¹² Ibid.

Assembly of the UN adopted a resolution that has a direct correlation with women's prisoners. The resolution entitled United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (**the Bangkok Rules**) provided special attention to women prisoners in terms of their rehabilitation and reintegration into the society in addition to recommending alternatives to the imprisonment of women and their children. As the resolution was supplementary, it did not replace the Standard Minimum Rules for the Treatment of Prisoners and the Tokyo Rules. According to the Resolution, prisons should have special provisions for women from their admission up to their integration into society. Classification of inmates based on their personal needs, their personal hygiene, medical care; gender-based health care, their relation with their child, and other issues that have significance for women prisoners' rehabilitation and reintegration are also discussed in the Resolution in detail. The resolution also required prisons to emphasize other characters for the categorization of women like a pregnant, indigenous, minority, and foreign national woman in order to handle them based on their special needs.

In section three, the Resolution covers the issues of alternative imprisonment which are important for effective rehabilitation of women inmates and their integration of society. It introduces alternative imprisonment such as diversionary measures and pretrial and sentencing alternatives to be implemented whenever necessary.

2.5.5. Federal Prison Proclamation No 1174/2019

Federal Prison Proclamation No 1174/2019 has been promulgated this year. According to the proclamation, the primary function of prisons is to promote rehabilitation. The proclamation highlights this responsibility as follows

*Whereas it is necessary to put in place a system whereby prisoners are integrated into the society, prisons should respect the human dignity of prisoners and enforce judicial orders and correction measures based on the particular circumstance of the prisoner.*¹¹³

The new proclamation also comes up with new ideas that are were introduced under the previous law. For example, it provided in the proclamation that, in the event, it is determined to be important, for the rehabilitation of prisoners; the prison may grant special benefits for prisoners. Referral of prisoners from maximum security prison to minimum security prison, allowing prisoners to work outside of the prison and get a better payment of his/her work,

¹¹³The Preamble of Proclamation No 1174 (2019)

allowing prisoners who are completing their sentence and who have no risk of escape to visit their family and return to prison are among the benefit for good conduct.¹¹⁴

Another relevant article of the new proclamation, as it was the case in the previous one, also reaffirms rehabilitation as the fundamental purpose of our prisons. Article 40 of the proclamation imposes a duty on a prison to establish a system that may enable inmates to reintegrate into society. Another relevant article of the proclamation also gives an important place for rehabilitation programs like work programs, educations, recreation facilities, and therapies.¹¹⁵

Among the main reasons for the enactment of this legislation, one reason is ensuring the functions of the custody, reformation, and rehabilitation of prisoners are performed towards contributing to the effective reintegration of prisoners and enhancement of their roles in crime prevention. In this legislative framework, prison is defined as a correctional institution where prisoners sentenced by courts serve their sentences.¹¹⁶ The main objective of the Commission established by this legislation is to admit and ward prisoners as well as provide them with reformatory and rehabilitative services that enable them to make the necessary attitudinal and behavioral change and become law-abiding, peaceful, and productive citizens.¹¹⁷ Accordingly the commission, within the requirement of the foregoing, is expected to provide all the necessary services that would ensure the rehabilitation and reintegration of convicts.¹¹⁸ In doing so, it is duty-bound to put in place all the necessary institutional arrangements that enable it (the commission) to effectively attain its primary function of rehabilitating and reintegrating prisoners. Furthermore, the commission shoulders the responsibility to ensure every prison warden performs his duties by fully complying with human rights principles of the National Constitution and other international treaties ratified or acceded to by the country.¹¹⁹

The basic principles, that has to be fully complied with at all times by prison wardens and other prison officials in the treatment of prisoners, including

- Respect for the human dignity of prisoners
- Facilitating post-release respect for the law

¹¹⁴ Ibid, article 66

¹¹⁵ Article 3, 32, 33, 45, 66 of Proclamation No 1174 (2019)

¹¹⁶ Ibid

¹¹⁷ Ibid; Article 5

¹¹⁸ Ibid; Article 6

¹¹⁹ Ibid; Article 18

- Facilitating rehabilitation towards self-supporting reintegration into society
- Segregation of remand and civil prisoners from convicts¹²⁰

2.5.6. Council of Ministers Regulation on the Treatment of Federal Prisoners No 138/2007

The first thing that we find in this legislation is the basic principles for the treatment of prisoners. Accordingly, the regulation stipulates that the treatment of prisoners should be performed based on

- Non-discrimination
- Respect for the human dignity of prisoners unless restricted by penalties that they are the subject of;
- Ensuring educative and rehabilitative execution of penalties.

Besides, all endeavors have been made to ensure compliance with the minimum standard rules discussed in the preceding section. When it comes to medical services, the legislative frameworks provide that treatment to every prisoner should be provided free of charge. It is also stipulated, to the extent possible, every prison shall have a medical facility, adequate medical equipment, pharmaceuticals, and medical officers.

Further to what has been said, professional counseling services are to be availed to prisoners during their stay in prison.¹²¹ The very objective of such counseling services would be to bring about behavioral change to ensure prisoners become law-abiding and productive citizens upon their release.

2.5.7. The Criminal Code of Ethiopia.

In the 1930's penal code retribution and deterrence had a significant place in the penal philosophy however these dominant principles started declining gradually. 1955, a constitution which revised the 1930's Penal Code, also re-affirm the domination of retribution.¹²² On the other hand, the 1957 Penal Code changed the existed punitive justice into reformatory justice.¹²³ As it is stated in Art 1 of, the 1957 Penal Code, reformation of the

¹²⁰ Ibid.

¹²¹ Ibid; Article 25

¹²² Adargachew Tesfay, (2004), "the crime problems and its correction" Page 217

¹²³ Philip Graven, (1965) , "An Introduction to the Ethiopian penal law" page 8

offender was the essential purpose of the penal code. This requirement was clearly stated by the king himself in the preface of the 1957 penal code.

*...New concept, not only juridical but also those contributed by the sciences of sociology, psychology and indeed penology, have been developed and must be taken into consideration in the elaboration of any criminal code which would be inspired by the principles of justice and liberty and by concern for the prevention and suppression of crime for the welfare and indeed the rehabilitation of the individual accused of crime.*¹²⁴

As we can infer from the preface, Article 1, and other various articles of the code, rehabilitation had a significant place in the old penal code. The code also provides possibilities for suspension of sentence, probation, and conditional release that are deemed to be important for the effectiveness of rehabilitation.¹²⁵

The 1996 (2004) new Criminal Code also follows the same trend as that of the 1957 code. It de-emphasizes the notion of rehabilitation (see chapter two of this paper).¹²⁶

As it has stated in the preface and Art one of the criminal code,¹²⁷ the purpose of punishment is deterrence by way of both specific and general incapacitation and rehabilitation. This tells us that our criminal code does not follow the principle that the purpose of punishment is one but rather it accepts there is a multitude of purposes. However, as the preface and several articles of the code indicate, the code gives a special emphasis on reformatory justice than that of punitive justice. This argument can be supported by what is provided in the preface as follows.

Except for the death sentence, even criminals sentenced to life imprisonment might be released on parole... And release on probation... This helps wrongdoers to lead a peaceful life and it indicates the major place which the criminal law has allocated for their rehabilitation... the fact that a wrongdoer instead of being made to suffer while in prison, to take vocational training and participate in academic education which would benefit them up on their release,

¹²⁴ Proclamation of criminal code of federal democratic Ethiopia, Pro No 414- (2004) NegaretGazeta

¹²⁵ *Penal code of the emperor of Ethiopia. Proclamation No. 158 of 1957.*

¹²⁶ *Article 1 of proclamation No 414/2004(The new criminal code)*

¹²⁷ *Ibid.*

reaffirms the great concern envisaged by the criminal code, that is the reformation of criminals¹²⁸

The above excerpt from the preface; the change of name of the former penal code into criminal code; the change of name of "woyni bet", a name given to prison previously, into "Maremeya Bet" indicates the major attention which the criminal code has placed for rehabilitation. So unlike that of the theorists of a mixed system, the Ethiopia criminal code prioritizes rehabilitation as the purpose of punishment. Art.111(work)¹²⁹, Art.158 (medical care), Art.162(Admission to a Corrective Institution), Art .168(fine instead of imprisonment), Art. 177(educational corrective measures) are some Articles of the code which demonstrate the purposes of punishment under the code which prioritize rehabilitation as a purpose of punishment.

2.5.8. Federal Supreme Court Sentencing Guideline

The Federal Supreme Court has issued and enforced a sentencing guideline, the chief aim of which, as stipulated in the document, is ensuring uniformity. That being the case, the guideline, however, only provides parameters that help members of the judiciary to effectively implement aggravating and mitigating circumstances in respect of any offense under the relevant provisions of the penal law.¹³⁰ Furthermore, deprivation of liberty and pecuniary penalties are the only issues covered under this guideline of the supreme court of the FDRE. Let alone providing for other alternative forms of punishment for criminal offenses of lesser gravity, this framework does not even cover issues that need to be taken into account to consider alternative punishments instead of these penalties under the criminal law of the country.

2.6. Rehabilitation as a Purpose of Punishment

For the past several years, the history of penology was full of cruelty, brutality, and inhumanity. Prisons were /are places of human humiliation and were considered as a place for not people but for animals. The Lion share of expenditure for prisons is dedicated to

¹²⁸ Ibid

¹²⁹ According to The SMRTP, A prisoner in good health shall be compelled to do such work as will be assigned by the Director of Prisons. Such work shall be suitable to the prisoner's ability and shall be of such nature as to reform and educate the prisoner and to be conducive to his rehabilitation.

¹³⁰ Reference is made to article 88/2/ of the Criminal code; proclamation No 414/2004

custody, which are iron bars, stone, walls, guards.¹³¹ They are a place of punishment in which people are confronted with horror, a place of real suffering painful to the memory, terrible to the imagination, a place of sorrow and tearful.¹³² All of these are done to revenge the criminal and to deter him and others from committing further crime, Unfortunately, the criminal justice system did not achieve its goal of reducing recidivism or protecting the society from harm.

On the contrary, the degree and complexity of the crime dramatically increased and prisons remain factories of crime, place of punishments not a place for punishment. They increased the criminals' capacity for crime and causes subsequent criminal acts inflicted on the public, which presumed to be protected from harm through punishments. Criminals are formed to become more strong and capable of committing a crime. Prisons have become a place of education of crime techniques and defense in front of the court. They are duplication sites of crime, violence, and despair.¹³³ If the status-quo is not changed, prisons will continue to be a school of criminality. Prisons become a place where the first criminal and less dangerous offenders become recidivist and more dangerous to society.¹³⁴ "It is just giving prisoner" MA" in crime. The following plea of a prisoner affirms the above explanation;

*Maybe I am incorrigible, but if it is true it is because I would rather die than to accept being treated less than a human being.... I know that thieves must be punished and I don't justify stealing, but now I don't think I will be a thief when I am released.... I now only think of killing those who have beaten me as if I were a dog. I hope and pray for the sake of my soul and future life of freedom that I can overcome the bitterness and hatred that eats daily at my soul, but I know to overcome it will not be easy.*¹³⁵

The old assumption that criminals could be made to obey to the norms of the society through humiliation, degradation, and threats have proved fruitless and it only increases hatred and made them be a nastier, more violent, an even greater threat when they are released in addition to making them feels guilty and worthless to the society at large.¹³⁶

In an attempt to protect itself from harm, society tries to put some kind of mechanism to achieve that protection. Nevertheless, society is still, inevitably, always confronted with the

¹³¹ David M.Petersen and Charles W.Thomas:(1957)*corrections: problems and prospects*page.37

¹³² D.StanleyEitzero and Douga A. Timmer: *Criminology* (1985).p.470.

¹³³ Id.p.33.

¹³⁴ AndargachewTesfaye: (2004), *The crime Problems and its correction*, page 190.

¹³⁵ Id.p.13.

¹³⁶ Id.p.189.

problem of how crime can be control. The past ways of the mechanism of crime control proved to be futile. Thus, it needs a paradigm shift.

The paradigm shift must be rehabilitation; other kinds of way of mechanism to control crime should come next. To rehabilitate is to give health, made free, provide education, and to cure the disease. This approach rests on the notion that healthy, rational people will not injure others.¹³⁷ A Criminal can become a useful citizen and law-abiding citizen by receiving the proper treatment. The objective of this treatment is to help the offender to rejoin the society not with his negative attitudes but with his optimistic values.¹³⁸

It is believed that individuals who commit crimes have a reason that obliged them to do so. Because human behavior is the sum of environmental and biological factors, it has a significant impact on the behavior of individuals. Society or human nature is responsible for that criminal conduct and must discover the antecedent for such conduct that can be internal or external and cure them. In this regard, therefore, the purpose of rehabilitation is to cure the offenders of their sickness and reinstate them to their original position, re-educating, reforming, and returning offenders to society as a law-abiding citizens. It takes a forward-looking approach in the efforts of eradicating offenders' character.¹³⁹ Let us change the status quo and make our prison specialized medical Centre and school of knowledge of productivity. Therefore, the war against crime must begin not from a penalty but from identifying and isolating the root causes from which crime emanates.¹⁴⁰

2.6.1 Factors that cause criminal behavior

Why do people commit crimes? Different types of theories provide different kinds of causes for committing a crime. The aggregation of these causes can be categorized as internal factors like psychological, biological, and external factors like environment that cause people to commit a crime.¹⁴¹ The former is based on the assumption that criminals are born not made while the latter argues that criminals are made not born.¹⁴² Offenders are not always criminal

¹³⁷ Peterson and Thomas,op.cit.,p.38.

¹³⁸ Andargachew,op.cit.,p.180.

¹³⁹ Id,p.169.

¹⁴⁰ Id,p.189.

¹⁴¹Patricle R. Anderson and Donald J.NewMan, (1993) ,*Introduction to criminal Justice* P. 62.

¹⁴² Freda Adler and Gerhard o.w Muller: *criminology* (1995) P.60

because they do not choose it, but rather they are influenced by causes beyond their supervision.¹⁴³ These different types of factors will be discussed in brief hereafter.

2.6.1.1. Psychological Factors

Psychologists' bases their study on individuals examining what may account for individual differences in committing a crime. They try to find causes that make up the criminal mentality between individuals such as defective conscience, emotional immaturity, inadequate childhood socialization, maternal deprivation, poor moral development. They consider how the individual is acquainted with criminality, that causes aggression or delinquency, and the relationship between different mental disorders and criminality.¹⁴⁴ The following are some of the causes ascribed by psychologists.

When the individual superego (part of the personality that contains social morality, norms, rules, and regulation) become weak or defective ego (compromise superego and id) it fails to control impulses of the id which is part of our personality that contains powerful urges and drive for gratification and satisfaction. The absence of social morality due to the defect of the superego may lead an individual to an uncontrolled id that causes criminality.¹⁴⁵

A defect in the moral development of an individual may also cause a crime. For example, the life of a child affected by death, divorce, or separation of a family may lead him to delinquency. For the child to have a healthy attachment he needs a warm, intimate, and continuous relationship with his mother. Studies also indicate that there is a relationship between family atmospheres such as paternal self-confidence, deviance, and affection and delinquent of a child.¹⁴⁶

Social learning theorists do not accept an internal function as the only cause to make someone delinquent but rather they assert that we learn behavior in various ways examples of which include observation, direct exposure, and differential reinforcement.¹⁴⁷ What we learn by observation is based on the behavior of others. For example, if a parent of a child tries to avoid family quarrels by force they teach their children to use the same method.

¹⁴³ Andersons and New man, op.cit., P 62.

¹⁴⁴ Adler and Muller, op.cit.not., p.78.

¹⁴⁵ Id, P.79.

¹⁴⁶ Ibid

¹⁴⁷ Id, P.85

In this case, to become delinquent is the question of coming from a peaceful family or not, and what we learn from direct experience is determined by what we do and what happens to us ¹⁴⁸ many psychologists agree that there is a personality structure which is different between criminal and non-criminal. Criminals are typically more impulsive, hostile self-centered and immature than non-criminal. ¹⁴⁹

2.6.1.2. Biological factors

Though there is a debate about whether biological or environmental factors are more important in shaping us, it is clear that we are the product of both of them. ¹⁵⁰ Humankind is not free to do whatever they please otherwise they would be considered like other animals which behavior is determined by pre-existing factors, breeding, and natural selection that are considered biological factors. These lead an individual to commit a crime or being delinquent i.e. heredity, brain damage, inadequate nutrition, hormones, chromosomal, etc. ¹⁵¹ The 'XYY' syndromes, an adoption theory, the IQ debate, biochemical factors, and hormones are among some theories which are conducted on biologicals factors.

I. The "XYY" syndromes

What makes each of us unique are chromosomes, which contain our gene. A female receives a 'Y' chromosome from both mother and father and has a 'x' chromosome while the male receives an 'X' chromosome from his mother and "Y" from his father and has "XY" chromosome. But this biological structure can be defected and result in genetic abnormalities. ¹⁵² Among these abnormalities, the 'XYY' syndrome is one in which a male receives two chromosomes from his father in addition to an 'x' chromosome from his mother. These kinds of males are approximately one in thousands of newborn males in the general population. Most of the 'XYY' offenders are tall, physically aggressive, and frequently violent. ¹⁵³ This indicates that behavior can be determined by these kinds of genetic factors which leads to delinquency.

¹⁴⁸ Ibid

¹⁴⁹ Id,P.88

¹⁵⁰ Adler and miller, op.cit., p.91-92

¹⁵¹ Anderson and New Man, op.cit.,P.63.

¹⁵² Id, P.66

¹⁵³ Adler and Muller, op.cit., P.97

II. Adoption

The separation of a child from his biological mother and going to the adoptive parent or others have an impact on the behavior of a child. Researches affirm the relationship between criminality and genetic-based on the criminality behavior of different parents.¹⁵⁴

In one study which accesses whether or not both the biological and the adoptive parent had a criminal record or not, it was concluded that biological parent has more influence on the child than that of the adoptive parents. A child who comes from a non-criminal adoptive and criminal adoptive parent has a high rate of criminality than that of a child who comes from a criminal adoptive and not criminal biological parent. Accordingly, we can conclude that the child from a criminal biological parent is most likely to become a criminal than that of a non-criminals biological parent.¹⁵⁵

III. The 'IQ' Debate

Biologists also try to connect criminality with IQ. Those who have low IQs are more likely to be criminals. Though there are no researches, which affirms this unequivocally, many biologists believe, that IQ has a determinant effect on the behavior of an individual. It leads him to criminals.¹⁵⁶ Dropping out of school and committing delinquent acts has some relationship.¹⁵⁷

IV. Biochemical Elements

Some biochemical elements like food allergies, diet, hypoglycemia, and hormone also affect the criminality behavior of an individual. For instance, when the level of sugar in the blood increases below the normal one the function of the brain can defect. It causes anxiety, headache, confusion, fatigue, and even aggressive behavior. Studies show that aggressive and impulsive male criminals had a higher level of sugar in their blood than non-criminal.¹⁵⁸

V. Hormones

Research also indicates that most recidivists who committed violent offenses were those who have an abnormally high level of male hormones i.e. Testosterone in their blood. Women also

¹⁵⁴Ibid

¹⁵⁵ Id, P.97

¹⁵⁶ Richard Monk: Taking sides: (1998), *clashing views on controversial Issue In crime and criminology* Page 32-33

¹⁵⁷ Anderson and New Man, op. cit., p.65

¹⁵⁸ Adler and Muller, op.cit., p.98

become aggressive and are prone to committing suicide before and during the menstrual period. They commit many crimes either in the pre-menstrual period or during menstruation. This tells us hormone has a significant effect on the behavior of individual.¹⁵⁹

2.6.1.4. Sociological Factors

As stated before, psychological and biological theorists focus on finding out what may account for individual differences while sociologists focus on the crime rate of groups. There are different kinds of sociological grounds which have a significant impact on a person's behaviors like family peer group, economic condition, success opportunity, school, and other many influences. These factors are beyond the control of the individual and have a significant impact on the person and may cause delinquency.¹⁶⁰

Sociologist tries to develop different types of theories regarding these factors, Among these theories, social learning theory, middle- class measuring rod, differential opportunity theory, control theory, and conflict theory are the most significant.¹⁶¹

I. Social Learning Theory

An individual may learn crime from others. Criminal behavior is learned through interaction with other persons whereby the individual learns the method of committing the crime and specific motive drives, rationalizations, and attitudes that cause an individual to commit a crime. The behavior of an individual can be influenced by social factors like family and peer groups from which an individual may learn criminal behavior. Criminal behavior may have positive consequences such as rewards or negative outcomes such as penalties. This theory is called social learning theory.¹⁶²

II. Middle- class measuring Rod

Most norms are enacted based on the value of middle-class society, which differs from the lower class in terms of value and lifestyles. When this happens the low-class societies adopt their value which may lead to violation of the norms of the middle class.¹⁶³The boys of the lower class are measured by the parameters of the middle class which consider them as non-

¹⁵⁹ Ibid

¹⁶⁰ Anderson and New man, op.cit., p.70

¹⁶¹ Adler and Muller, op.cit.,P.98

¹⁶² Ibid

¹⁶³ Id.page 128

abiding. This creates the frustration-experienced lower class. Delinquency is a product of a collective agreement among lower-class boys.¹⁶⁴

III. Differential Opportunity theory

The feeling of frustration and poor self-image can develop as a result of one's inability to achieve economic needs. This in turn leads to delinquency. One who wants a quality cloth but weak in economic capacity may steal or rob someone else.¹⁶⁵

IV. Control Theory

The more an individual has a strong bond to his society the less likely he would commit a crime. Strong relationships with parents and friends, good peer groups, teachers, and others in school help an individual to control criminal behavior.¹⁶⁶ Participation in conventional activities makes an individual busy and he has no time for misconduct. As the saying tells us "an idle mind is the devil's workshop". Thus when a person participated in school, church, hobbies, clubs, teams, or work activities, he refrains from the wrong activity which is a product of idleness.¹⁶⁷

V. Conflict theory

A society that is found at the top of the pyramid of social class develops its legal system and it imposes the same on that of the society which is found at the bottom of the pyramid of social class. Those member of the society which is found at the bottom are powerless than that of the highest, they are not strong enough to influence the legal system. When they follow their value, they contradict with the value of the highest class. Then the upper class calls them criminal and then penalized.¹⁶⁸

In this case, the highest group and the low group have different values. The value of one's group contradicts the other group and this may lead o an individual from the law class to commit a crime by obeying to his norms without knowing that he is doing so.¹⁶⁹ Then, it ends up that being a criminal becomes the question of to which group an individual is a member.

¹⁶⁴ Anderson and New man, op.cit., page.71

¹⁶⁵ Id. P.73

¹⁶⁶ Adler and Muller, op.cit., page 174

¹⁶⁷ Id. P. 75

¹⁶⁸ Id. P. 76

¹⁶⁹ Id. r. 126

As we have noted in the previous section, people may be compelled to do wrong as the result of a variety of influences. Therefore, the criminal justice system should take into consideration these different factors of influencing criminal behaviors. The theory of rehabilitation is based on the assumption that criminals have become sick and their character during committing the crime is determined by external and internal forces which are out of their control.¹⁷⁰

We can reshape individuals, reform them by identifying the problems, and cure them and then they become a useful member of society.¹⁷¹ Now that we have discussed the disease now let us discuss the medicine. The need for rehabilitation of individuals as a remedy of crime will be discussed in brief hereafter.

2.6.2. Rehabilitation: The underpinning Justification

Rehabilitation programs reduce recidivism if they accompany by proven principles and are targeted to specific offenders. In principle, Rehabilitation contributes to recidivism directly, but rehabilitation can also contribute to many other problems related to imprisonment. In this section of the paper, the function of rehabilitation regarding decreasing recidivism and its additive functions will be discussed.

2.6.2.1. Educative Purpose

If the theory of rehabilitation is realized in practice in its full sense it has an educative purpose for the inmates. It entails different kinds of benefits. Rehabilitation is not a single action like incarceration, rather it is a process, which incorporates different programs that help an inmate to know different types of lifestyles.¹⁷²

Among others, health and medical services, religious programs education program, prison labor and industry, clinical treatments programs are some of the programs which can be delivered in prisons to improve the behaviors of inmates. These activities of prison programs are influential in the reformation of inmates and their successful reintegration and rejoining

¹⁷⁰ James A. Inciardi,(1987), *Criminal Justice* P. 452.

¹⁷¹ Ibid

¹⁷² Ibid

Fasil Nahum; (1982),*Punishment and society a development approach, journal of Ethiopian Law*,Vol.12page 134-35

into society.¹⁷³ One program may focus on behavioral change which would try to avoid problems of the inmate in terms of urges and criminal tendencies while other programs like academic and vocational programs try to equip the inmate with skills that are important for a job opportunity after release. Other programs like recreational programs help the inmate to embrace the reformation program and help to become an optimist and less hostile.¹⁷⁴

Rehabilitation's programs make the inmates' functional, law-abiding and sociable citizens.¹⁷⁵ This in turn has a direct and indirect impact on criminality.

Making an individual law-abiding, productive benefits society. The very notion of rehabilitation falls on the modification of the inmate's behavior and makes him ready to reintegrate himself into the community as a productive member. This minimizes the threat of the offender on the society at large.¹⁷⁶

Researches indicate that education is one of the most successful mechanisms for controlling control. It minimizes the likelihood that an inmate will go back to crime after release from prison. However, if we let them into the society unskilled, uneducated, they may return to their former life of crime.¹⁷⁷

2.6.2.2. Social Cost Minimization

When someone is punished the criminal justice system incurs costs for the implementation of the punishment, i.e. cost to the prison itself (food, dormitory, etc) or it may be a direct cost of punishment. In America, the costs of the correctional system is one-third of all the resources allocated to the criminal justice system. The increment of the cost to operate prison has its impact on other budgets of the government. For example, it may require a reduction of funds from public education and medical service for the poor.¹⁷⁸

Punishment also has an indirect cost on the society known as a social cost. When we implement the previous ways of penalty, which destroy and cripple the offender physically and psychologically, he no longer becomes an important or functional member of society as other members of the society. He will be unable to contribute his best as any other citizen. The punishment provides two choices i.e. Collaboration with other offenders or become non-

¹⁷³Id.page 556

¹⁷⁴ Freda Adler and Gerhard o.w Muller: criminology(1995),page 60

¹⁷⁵ Andersons and New man, op.cit.page62.

¹⁷⁶ Andargatchew Tesfaye:(2004) *The crime Problems and its corrections* Page 70

¹⁷⁷ Joseph L.victor:(1999)*criminal justice* Page 169.

¹⁷⁸ Adler and Muller, op.cit, Note.13.Page 397-98

functional and hatred of the society. Therefore, it would be impossible to reinstate him to the community as a functional citizen.¹⁷⁹

Penalizing the offender is not only about punishing him but also over-punishing the offender and society. The indirect cost of punishment that is social cost comes to exist when the offender's close groups such as those of his family and friends are punished consequentially. For instance, the imprisonment of the offender who was the source of the livelihood of the family before his incarceration will no longer only about punishing the offender but also punishing the innocent dependents of the offender.

Inmate incarceration can affect many aspects of a family's life, including emotional and behavioral well-being, family stability, and financial circumstances.¹⁸⁰ These dependents of the offender may also become potential criminals due to the disintegration of the bond of the family. For example, the child of the offender may become a thief to fulfill his economical need. And they ultimately become a threat to society.

In this respect, therefore, punishing the offender is over-punishing his dependent and creating a potential offender.¹⁸¹ As it is stated before prisons may also become factories of criminal in, where first-time offenders become recidivist and less dangerous offenders, become the danger to the society.¹⁸²

This is also another cost of society when the offender continues to be a threat to society.¹⁸³ Thus, what does the rehabilitation here is minimizing the social cost through the treatment of the offender. It reintroduces him successfully into the community and made him a law-abiding citizen by doing so we can minimize the cost of the society.¹⁸⁴ Among other programs of rehabilitation, work inside the prison is the one. The criminal code dictates that A prisoner compelled to work shall if his work and conduct are satisfactory, be entitled to receive compensation for every day's work. The payment from his payment enables him to help his family.

¹⁷⁹Andargatchew, op.cit.,page 173

¹⁸⁰ Steve Christian: (2009)*children of incarnated parents(national conference of state legislature*,page 2

¹⁸¹Fasil Nahum Page I35, op.cit note page 135

¹⁸² Ibid

¹⁸³ Andargachewu,Op.Cit,note.,page135

¹⁸⁴ Stephen A. salt zubeg and John L. diamond:(1994),*criminal law: case and materi*:page110

2.6.2.3. Sources of Labor

Though there is no empirical evidence, researches, however, indicates that the number of people incarcerated in many countries of prison has continuously increased.¹⁸⁵ Regardless of the case, it is clear that prisons have large populations of inmates. If rehabilitation is realized into practice, prisoners program like the prison industry will be created., This is possible by using the labor force in prison.¹⁸⁶ Chief justice Warren Bunge stated the above notion as follows.

*‘‘To put people behind walls and bars and do little or nothing to change them is winning a battle but lose a war. It wrong it is expensive. It is stupid.’’*¹⁸⁷

Mostly we have not enough work to keep all inmates busy, thus most of them spent their time in idleness. There is no opportunity for inmates to engage in some kind of activity. What they have are meaningless or dull tasks.¹⁸⁸

In the nineteenth century, in Sing Sing prison in New York, an industry were developed in which the goods produced by the inmates were sold on the free market and the inmates received a small number of profits. The state also supplied the product of the prison for different kinds of government agencies. The state went even further by hiring inmates in the construction and repair of public streets.¹⁸⁹

In this regard, one can learn how rehabilitation creates an opportunity to exploit the unutilized resources; i.e. labor which has significant importance for the economy of the country as well as for the inmates themselves. This also, for the prisons themselves becomes beneficial by producing different goods for the prison, to make a profit, reduce idle time, implement prison rules and regulations, and to rehabilitate the inmate.¹⁹⁰ And if the prison becomes self-supporting, it saves the money of taxpayers from which the government allocates budget for the expense of prison.¹⁹¹ Moreover, they can contribute to the local

¹⁸⁵ Adler and Muller, op.cit., page 397

¹⁸⁶ Inciardi, op.cit, note., page 561.

¹⁸⁷ Adler and Muller, op. cit., Page 397

¹⁸⁸ Andargachewu, Op.Cit.,page.33

¹⁸⁹ Inciardi, op, cit, note.,page. 518-19

¹⁹⁰ Andargatchew, op.cit.,page.180

¹⁹¹ Adlere and Muller, op.cit., page.494

economy in two ways, one-way by purchasing many goods and services from the community and secondly by providing their goods and services for the community.¹⁹²

2.6.2.4. Decreasing Recidivism

The theory of rehabilitation is associated with programs that are undertaken in the prison-like recreation, education, vocational training, religious service, library service, leisure time, counseling, and other different types of activities aimed at shifting the behaviors of inmates to productive and law-abiding individuals.¹⁹³ Each program of rehabilitation has its contribution to rehabilitating the inmate. If an inmate is rehabilitated, there will not be a danger of recidivism against society. So by rehabilitating the offender it is possible to reduce recidivism.¹⁹⁴

Recidivism refers to the habitual involvement of offenders in criminal activity. It may be measured by the rate of re-arrest, reconviction, or re-imprisonment. Rehabilitation is a tool to reduce the recidivism rate for those who have been reformed under the rehabilitation program.¹⁹⁵ Each program of rehabilitation has its effect on the behavior of criminals in all aspects of their life.

When we can change offenders into non-offenders we would systematically be decreasing the population of offenders.¹⁹⁶ Therefore, this may lead us to conclude that rehabilitation has a direct relationship with the rate of recidivism.

2.6.2.5. Bargain Power

Most of the time in developing countries such as Ethiopia the bargaining power of the prosecutor and the accused is imbalanced. It is often between the well-equipped public prosecutor and the naked accused which makes the probability of the criminalization of the innocent people to be high. Though we may not find any empirical evidence, the number of innocent people, which may go to prison without having committed any offense but due to weakness of the legal system, is not insignificant. Penalizing these innocent people, by imprisonment they don't deserve, is pushing them to become the potential offenders who will become a threat to society when they are eventually released from prison. However,

¹⁹² Anderson and new man, op.cit.,page.353

¹⁹³ Id. page.345

¹⁹⁴ Adler and Muller, op.cit.,page.495

¹⁹⁵ Ibid

¹⁹⁶ Rich trde'monc: Taking sides: (1998),*clashing views on controversial issue In crime and criminology*Page.32-33

rehabilitation may be a better way of handling those innocent people, so they may not suffer from the trauma of wrongful sentencing and divert their somewhat vengeful attitude towards rewards in life. This is not so much as to rehabilitate them but rather to reduce their anger and to show sympathy.

2.7. Supplementary program of rehabilitation

It is desirable to reward good behavior with either a reduced sentence prohibition or parole. After all, the end of rehabilitation has rehabilitated the offender. If an offender well-behaved, he must be rewarded with early release. In this part of the paper, some rewards for rehabilitation will be discussed.

2.7.1 Parole

Parole is a reward gained for good conduct in the prison. It is a system whereby an inmate is released from prison after a part of the sentence has been served.¹⁹⁷ It was developed by Captain Alexander Maconochie was the leader of the English penal colony on Norfolk Island off the coast of Australia in the 1840s. He came up with the reward system of prison through which prisoners would have an opportunity for early release out of prison according to their behavior. It was a reward based on industry, labor, and good conduct. Nevertheless, to have this reward inmates were required to pass several steps from control up to that of freedom.¹⁹⁸ When he created this system, he observed that:

*A man under a time of sentence thinks only how he is to cheat that time and while it awaits his release, how he could evade labor because he has no interest in it what so ever, and he has no desire to please the officer under whom he is placed because they cannot... in any way promote his liberation.*¹⁹⁹

The steps that he developed were five in numbers and he called it a "mark system." These are strict custody, labor in government work gangs, limited areas of freedom, a ticket of leave for conditional release, and full freedom.²⁰⁰ According to the national commission on criminal justice standards and goals, the purpose of parole is a reduction of recidivism;

¹⁹⁷ Inciardi, op. cit., Page. 736

¹⁹⁸ Adler and Muller, op.cit., Page.501

¹⁹⁹ Andargachew, op.cit., Page.315.

²⁰⁰ Id. Page 315-16

achievement and fairness and propriety, the imposition of the appropriate sanction, public expectation, and maintenance of the justice system.²⁰¹

Parole is a conditional release. Many conditions can be used as a yardstick to determine to whom parole is granted. Some of these factors are prior criminal record, his personality and physical condition, social history, employment record, intelligence, family status, institutional conduct, parole plan, prior probation or parole history, and his stated intention for the future.²⁰²

Inmates granted paroles are released into the community under supervision, as a prerequisite. To release the inmate must sign an agreement to comply with the parole conditional rules that prohibit, demand, or encourage certain behavior as part of the parole.²⁰³ If parole is appropriately applied in prisons, it can support the very purpose of rehabilitation, that is to say, that, those who are cured of [sickness] could be released from the prison and lead their normal life and contribute their best to the society.

2.7.2. Pardons

Pardon is simply an early release from prison. It may be conditional in which certain obligations are imposed on the inmate or a full pardon whereby the inmate is released without any kind of imposition. Pardon is not bound to be revoked if it is granted under full pardon entitlement. However, it might be revoked when it is granted under certain conditions and when the inmate violates these conditions which are required to be complied with.²⁰⁴

In most countries, the pardoning power falls upon the Head of State or the president of the country. In this respect, the writer argues that granting the pardoning power for the Head of State or to the president is wrong in so far as serving the purpose of pardoning is concerned. The author of this study finds it plausible that such [the authority of pardoning] must be the business of correctional institutions; they have full information about their inmates at their disposal. Our country Ethiopia is not different from most countries in conferring the power of issuing a pardon.²⁰⁵

²⁰¹Inciardi, op.cit.,Page.316.

²⁰²I.d page 452

²⁰³Adler and Muller, op.cit, note 13,page 499

²⁰⁴ A proclamation To Provide for the procedure of granting pardon, 1996, pro(No.395, Nag.Gaz, year 10, No.35

²⁰⁵ Adler and Muller, op.cit.,P.4

Pondering on history, we find an event in time when Nixon, the ex-president of the US, was pardoned by President Ford in 1974. Pardon may be used to make right arbitrarily imposed sentences or to compensate mitigating circumstances that were not applicable when the sentences were passed at a certain time in the past. Pardon also serves justice when it is used to release an innocent inmate whose innocence is revealed after his imprisonment, and to free inmates who were in verbosity and become hopeless to demonstrate empathy for fellow human beings.²⁰⁶

2.7.3. Other special benefits

When prisoners are presumed rehabilitated, the prison may go as far as releasing them for work outside the prison and allowing them to visit their family and they would be returned to the return after the work and visit. These kinds of gestures, extended in the spirit of fairness, help the prisoner to acquaint himself to the outside world and of course will greatly assist in facilitating the integration of inmate into the society effectively. Many scholars argue that placing prisoners into an employment frame work is an important component in the rehabilitation process and can be a turning point in their criminal careers. Prisoner employment and training programs are assumed to help prisoners acquire professional experience and good work habits, support their families, pay their fines, and more generally achieve financial stability.²⁰⁷

²⁰⁶Ibid

²⁰⁷BadiHasisi, Ph.D. Hebrew University of Jerusalem Reinforcing the Impacts of Work Release on Prisoner Recidivism: *The Importance of Integrative Interventions*

CHAPTER THREE

REHABILITATION OF PRISONERS IN FEDERAL PRISON OF KALITY: THE LAW AND THE PRACTICE.

Achieving rehabilitation without good legislative and executive performances is a near impossibility. However, based on the researcher's observation and data from key informants FPK has no suitable condition to put rehabilitation into practice, and to ascertain a rehabilitated offender promise himself to become a law-abiding citizen.

As noted at the gate of the correctional facility and as the correctional facility calls the inmates (rehabilitees), despite the primary purpose of the correctional facility being rehabilitating the inmates and release them into the public equipped with better personality and behavior, almost all activities and budgets are focused in keeping an eye on the inmates confined in a particular space which makes it difficult to be certain whether the correctional facility is working towards rehabilitating the inmates.²⁰⁸

According to art, 87 of the new criminal code of Ethiopia, any kind of punishment should be implemented in light of the fulfilling purpose of the law. As we can infer from the preface and Article 1 of the Code rehabilitation is assumed as the principal purpose of the code among other purposes. However, currently, FPK and some articles of the code do not seem to reflect this purpose. In this chapter, some of these problems will be discussed.

3.1. Problem Related to the Legal Framework

3.1.1. Death Penalty

The death penalty is the only type of irreversible and final sentence.²⁰⁹ History tells us that the beginning of the death penalty dates back to the ancient world begun when innocent Socrates of Athens in 399 BC and Jesus in Jerusalem in 30 A.D were sentenced to death by their accusers. They were innocent victims of the death penalty.²¹⁰ Many people try to argue and give a conclusive conclusion about the death penalty but it is not yet an issue that consensus has been reached for and it continues to this date and shows no sign of stopping for the coming times.²¹¹ The proponent of the death penalty stated that it has a significant

²⁰⁸Personal observation and interview with inmates.

²⁰⁹Freda Adler, etal: (1994), *Criminal justice*,page 64

²¹⁰Hommas.S.W. Simon: (2001) , *law and philosophy An Introduction with reading*, page483

²¹¹ Richard C. Monk: Taking sides: (1998) *Clashing / views on controversial Issue In crime and criminology*.page 222

deterrence effect to prevent future crime and the cost of custody for the offender in prison for life, a burden on the taxpayer and the state. Thus, some assert that it is better to eradicate the offender who must pay for the crime he did.²¹² Some proponents of the death penalty believe that a person who has taken the life of another should have his life taken from him. It is the mirror image of an eye for an eye approach, which is an act of retribution. For them it is a guarantee for the community from the threat of crime by warranting the offender will never again commit any kind of crime including murder. They also try to support their argument by implying that capital punishment has majority support from the public.²¹³

In the case of a country, recent research on the deterrence effect of capital punishment, affirm that it is impossible to say it [capital punishment] has a deterrence effect on the potential offender. If we say it has a deterrence effect there should be a decrease in capital crime where capital punishment is used and should increase where it is abolished.²¹⁴ Nevertheless, research does not prove these logical arguments rather it contradicts their argument. In one study, out of over one hundred jurisdictions examined sixty-eight jurisdictions were found to have retained this form of punishment. Nevertheless, there was no decline in the number of incidents of murder in these jurisdictions. In retrospect, it was found that the crime of murder does not decline where the death penalty is retained and it does not increase were it abolished.²¹⁵

If the death penalty does not affect the rate of a capital crime, such as murder, it is difficult to say it would have a deterrence effect on such crime.²¹⁶ By the same analogy, one may deduce that it [death penalty] cannot be used as an assurance of protecting the community from the crime of the potential offender. It might deter rational and calculated offenses like white-collar crime but it does not work in case of murder, torture, etc in which the offender does not, usually, calculate the cost-benefit of the crime.²¹⁷ The following history that was authored in English supplements the above conclusion.

²¹²Adler, op. cit.,page.368.6.

²¹³Patrick R. Anderson; (1993), *Introduction to criminal Justice*,page 342.

²¹⁴ Adler, op.cit., p.365

²¹⁵ Monk, op, cit. 222

²¹⁶Fasil, op. Cit.,p.131

²¹⁷ Anderson, op.cit.,P.343

*When the public hangs of pickpockets were going on at Tyburn, other of the light-fingered fraternity were doing a thriving business in picking the pockets of the crowd looking in the scaffolds.*²¹⁸

It should be understood that the legal system does not provide a perfect evidence system; judges base their decision on the evidence presented to them and the testimonies of witnesses. Even in this modern world, man is far from perfection even with his complex technologies at his disposal. To err is to be human, thus an individual might be wrongly convicted and consequently executed by error and there would be no remedy for such mistake. It is beyond the control of humankind to be perfectly sure whether a person is truly guilty. When we support capital punishment, we are willing to commit mistakes and execute some innocent individuals.²¹⁹ This is also paradoxically true when such imperfections ‘free those who are guilty.’

Jesus from Jerusalem and Socrates from Athens was the victim of this human imperfection, the former, fated for crucifixion while the latter was poisoned without any empirical evidence which proved their transgression.²²⁰ But the present generation proved the innocence of the two people. Ever since that time to the present, there have been and still are many that share the fates of Jesus and Socrates who have ended up being the victims of imperfection. In his study of wrongful conviction, Max Hirschberg stated about the issue as follows

*Innocent men wrongfully convicted are countless. Science has to open our eyes to this terrible fact... Every doubt and not merely "reasonable- doubt" should be over before a death sentence is imposed but it is impossible to operate a criminal justice system in which" every doubt "is resolved in favor of the accused.*²²¹

Capital punishment has no individual deterrence effect at all. It may incapacitate an offender from committing a further crime, but it does not teach him a useful lesson that he can apply later on.²²² With regards to general deterrence, we have no research which proves the deterrence effect of capital punishment on other potential offenders. On the contrary, some studies show there is no difference in crime rate between states that abolish it and those who

²¹⁸Fasil, op.cit.,page.130

²¹⁹ Simon, op.cit.,page.483

²²⁰ Ibid

²²¹Id.p. 482

²²² Monk op.cit.,page.222

enforce it (America V.s European country). It is difficult to prove that the death penalty perfectly deters others from committing a capital crime.²²³

Many countries, including Ethiopia, still practice the death penalty on a condition attached to the principle that letting free ten offenders than sentencing one innocent would ensure the prevalence of the legal system. yet innocent are still convicted. On the other hand, those who are guilty but more favored persons or groups escape capital punishment however justice requires punishing the guilty. Due to the weakness of the legal system, the imperfection of humankind, or other discriminatory tendencies or discretion, capital punishments are enforced discriminatorily, i.e., some who are for a fact guilty are set free while the innocent some convicted.²²⁴ Its use in the past was discriminatory against the poor, blacks, and other minorities.²²⁵

As we can infer from our previous discussion it would be possible, to say Rehabilitation is the dominant philosophy of the legal system of Ethiopia. However, what the error made by drafters of the 1996 new criminal code is retaining the death penalty, which is a retributive penalty by its very nature and purpose, as punishment,. It is a punitive alone measure that that goes against the reformatory justice of the legal system.

If this is the case, one may ask, why the drafters included the death penalty as punishment? It is indeed obvious to comprehend that when one executed he executed forever. There would be no chance of rehabilitation at all when the legal system dooms a certain offender to death it decided that such a person is non-rehabilitated and such an individual cannot be functional anymore. Nevertheless, what makes an offender who commits capital crimes different from those who commit a non-capital crime? Is that a theft offender can be rehabilitated, a murderer could not? If yes, what is the parameter to reach such a conclusion? The writer has an opinion that the execution of an offender under the reformatory justice system is just violating the right of the offender to get a chance to rehabilitate like other offenders.

3.1.2. Legislative Emphasis on Punishment

Even though in principle, the laws related to rehabilitation accept rehabilitation as the essential purpose of punishment, the relevant legal frameworks have given very little regard

²²³ Ibid

²²⁴ Id.p .484

²²⁵ Anderson. Op.cit.,p.343

to a rehabilitation program. A case in point is the absence of a law that establishes and deals with the probation commission and the enforcing officer as well as parole. In this regard, art.199 (2) provides that the organization and the duties of the probation commissions and probations officers need to be regulated by law. Yet, there are no laws, procedures, or anything equivalent to facilitate this. The absence of this has its repercussions. For one thing, it would not be certain whether the offenders subject to probation and parole are achieving the objectives of the system in place, i.e., rehabilitation. It is not also certain how many of them would become recidivists. In such a structure and system, the rehabilitation objective of both probation and parole could not be achieved.

3.2. Enforcement related problem

3.2.1. Effectiveness and performance of rehabilitation.

The importance of rehabilitating the behavior of inmates is not only accepted by the correctional facility, but it is also among the five major sectors in the correctional facility of FPK. The Correcting Sector has three directorates with functions of behavioral adjustment and nurturing; education and training; and lastly development and independence. All of the three structures are formed to empower and nurture inmates to go through behavioral adjustment and ultimately become productive citizens.²²⁶ Between these processes, the first phase (which continues until the inmate is released) is to psychologically prepare newly incarcerated inmate, in order the new inmate adjusts himself to the prison environment and condition him psychologically to embrace the life of prison and, in due process, to accept the education and training offered by the correctional facility which includes lifestyle and life coaching. The second process is the actual delivery of education and training, which include technical training of inmates in different skills and crafts such as metal and woodworks. The purpose, of educating and training, is equipping inmates with skills to become self-sufficient by putting the training into the actual practice of producing products and offer such products to buyers through shop outlets or cooperatives organized and operated by fellow inmates and earn income.²²⁷

However, the organizational structure of the correctional facility is as described above. The crippling limitation in terms of infrastructures required to facilitate such rehabilitations and

²²⁶Interview with AsemeraAbedeta(MA in sociology , 9 years of relevant experience) Director of Rehabilitation and Correction directorate of federal prison administration. (Addis Ababa 11 may 2020)

²²⁷ Interview with Abera Teresa (BA in Psychology, a student of MA, 6 years years of relevant experience) coordinator officer of Rehabilitation and Correction directorate of FPK. (Addis Ababa 11 may 2020)

self-developments of inmates, coupled with the disproportionate number of inmates make it virtually impossible for such structures (functions) accessible to all inmates. Due to this fact, the number of inmates that do not undergo such affirmative structures is far more than those who access such services. The problem is further exasperated as only a few of the inmates are motivated or aspired to participate in these rehabilitation and self-empowerment activities. Furthermore, the infrastructures available within the correctional facility for such activities are neither up to the required standards nor are the trainers assigned barely qualified professionals with adequate skill and knowledge. The negligible pay and benefits offered to trainers is also another setback to attract and assign more qualified and competent trainers. The absence of qualified trainers has an adverse effect on the satisfaction of the inmates by the training they receive. Thus it remains a fact that the training the inmates receive fails in making them competitive with the outside market.²²⁸

The number of inmates per training session is excess where sometimes there might be more than a hundred inmates in a single class, which makes it difficult to create conditions where the inmates learn affirmative lessons from one another both in respect to the offenses they have been incarcerated for, and self-improvement they have achieved during their time in the correctional facility.²²⁹

Since the problems that make the rehabilitation efforts ineffective are sophisticated, it would worthwhile to discuss the main problems one by one.

3.2.1.1. Structurally Problems

Lack of skilled professionals

Skilled human resource indeed contributes to the efficiency and well-functioning of a given system and this is also true for the prison system. In the prison system, there are several professionals assigned for different tasks. These professionals include social workers, health professionals, school teachers, vocational trainers engaged in their respective fields of professions. Their effectiveness is measured by the required skill they possess, in particular concerning the unique skill relevant to the prison environment, when compared with the other similar professionals working in other environments outside the prison. Observation of the practice in this regard identified a handful of problems. For a starter, the number of professionals is inadequate to the prisoners, as the number of latter is in perpetual increment. Next is the serious lack of the required skills and expertise needed

²²⁸ Group dissection with rehabilitation and correction officers (Addis Ababa 1 may 2020)

²²⁹ Ibid.

from the professional in the prison. The problem is particularly attributed to the amount of salary and availability of other incentives due to them. The fact that not all these remunerations and incentive schemes are attractive renders prisons to be a place for incompetent professionals that have a negative bearing on rehabilitation.²³⁰

The key informants from prisoners stated that the school of police training does not focus on rehabilitation works but teaches the trainers only about security work. There is a severe deficiency in the availability of experts in rehabilitation services. The informants added that the place is not only inconvenient to rehabilitate prisoners, but it also lacks a conducive work atmosphere for expertise to carry out their tasks. One key informant has shared that experts are not delivering effective works as they often fail to bring change; There is no any rule or procedure for classifying inmates based on their personal problem and kind of crime they committed. The informant further noted that they even unable to give a piece of advice that is relevant for the rehabilitation of inmates and in certain cases, it seems that the inmates have possessed better knowledge than the experts. The respondents also highlighted that there is no convenient working place for the hired experts of rehabilitation in addition to their lack of cooperation to work with other departments. According to the data from the rehabilitation department, there are more than forty experts in charge of implementing the rehabilitation tasks. However, ironically, these experts just hold the degree, not the Knowledge and skill of rehabilitation that can be put in to use to decrease recidivism. According to the informants, the professionals assigned are concerned with the routine works of the department, not the real work.

It might be stating the obvious when noting that the degree or the diplomas the professionals hold could not, alone, help them to overcome the problems they encounter strategically. For example, one key informant from the rehabilitation department responded as follows,

“I do not know how you deal and interact with a rapist or what are the programs my department deploys to tackle such problems problem.”

They recalled that there are myriad problems in the prison in including the unavailability of a convenient place to provide consultation service, lack of community inclusive rehabilitation system, and failure in arrangements to the community to contribute their role in the rehabilitation process. This setback makes the service of correcting and reforming inmates to end up fruitless.

²³⁰ Ibid.

Rehabilitation is not an end; rather it is a process, which needs the involvement of many individuals and sectors. The key informant of the department of rehabilitation, broadly mentioned that there are no suitable conditions that enable them to exercise their professional duties not to mention a lack of competence of experts assigned for rehabilitation. One of the coordinators of the department remarked the programs are far from being effective in decreasing crime inside the prison wall let alone contributing to decreasing crime outside the prison. Inmates are just confined in the prison because of a lack of effective work of rehabilitation.

Enforcement of correction

In addition to the low level of interest of commitment from the side of rehabilitation officers, the police members are also not working strongly. There is also the issue of freedom of rehabilitation workers; it is also observed that the interest of prisoners is decreasing to take part in indoor and outdoor sports activities. The entertainment service is not delivered adequately. There is no service of tennis and snooker; there is a limitation of awareness of the law and social service.

All informants have agreed that the work of rehabilitation fails to attain the required change and a number of prisoners repeatedly commit a crime because the work is considered as only one sector and there is also a problem of coordination if it is believed that the responsibility of rehabilitation concerns all management, memorandum of employees need to make the necessary contribution by addressing the problem of perception and only then change that a government and a community are expecting from the prison can be realized.

Accordingly, it is proven by the research conducted that the work of rehabilitation of prisoners is not effective up to the required level and the number of prisoners relapsing into crime is increasing. The survey further demonstrated that there is no effective service of consultation; there is low service of sport and entertainment and the aggregate of these drawbacks fails to attain the level of performance prescribed in manual and standards of correcting building prisoners.

There was a question presented to respondents which asked them *“how is the service delivery in rehabilitation service of prisoners (consultation service, social service, legal awareness, sport, and entertainment, getting the required information, knowing right and obligation and stabilizing service, etc” related with the prisoners you are working in*

connection with the service of rehabilitation? , the key informant and even the head of the department agreed that the service virtually does not exist.

The information gathered from the interview of prisoners showed that the experts of rehabilitation programs are not listening to the problem and heartbeat of the prisoners; that they have no skill for the required programs; that the prisoners barely know what the experts of rehabilitation programs are doing. They consider their responsibility as work to check in the office during the working hours and sit. The problem gets worse when one finds out that the experts of rehabilitation programs have no enough awareness of proclamation, regulation, and directives of the institution and the rehab programs and those who are aware have no interest²³¹

The experts have no knowledge that enables them to change prisoners beyond introducing themselves and they do not try to perform their responsibility as properly as required. They have never seen delivering counseling advice, encourage prisoner when he/she is stressed, sad, and frustrated. In addition to these issues, the workers of the prison very much tend to focus their attention on the security personnel than rehabilitation of the prisoners.

3.2.2. Structure of Prison

Commonly prisons are classified into maximum security, medium security, and minimum-security prison according to the degree of security they have. Maximum security prisons have high concrete walls with armed guards and floodlights. The primary purpose of these kinds of prisons is revenge. They are designed and built to house dangerous criminals and that sentencing for a long period.²³² On the other hand, medium-security prisons are smaller in size when they compare with that of maximum security prisons but they are the same in their physical appearance. They are built and prepared primarily for rehabilitation and to house less dangerous criminals. The last type is the minimum-security prisons that are characterized by being populated by non-violent and non-dangerous offenders and having a dormitory-style building, private room, and absence of armed guard and appropriate for rehabilitation.²³³

The infrastructures can only be described as a symbolical facility with serious deficiencies that need immediate rectifications. They lack understanding of the severity of the offenses committed by the inmate and design that considers the basic principle that the correctional

²³¹Group discussion with inmates.

²³² Andargatchew, Op.cit., P.197

²³³ Ander in. Op.cit., P.356.

facility's primary goal is to rehabilitate and change the behaviors of inmates incarcerated to be a more productive citizen. Inadequacy of assigned human resources and lack the necessary preparation of the subjects of training are demonstrations of the deficient infrastructure in the correctional facility.

FPK is maximum-security prisons, which is not appropriate for rehabilitation that is the very purpose of the code and the proclamation stated before. It is built without any plan and does not consider the increasing size of inmates. For instance, one shelter of inmates that is approximately occupying an area of ten-meter-by-ten-meter shelters more than ninety inmates.²³⁴ A shelter that is considered relatively better by inmates shelters twenty-six prisoners. The shelters used to house the inmates are overcrowded with insufficient light and ventilation. In some of the prison's shelters, there is no space between beds that the beds are set against each other.²³⁵ The total condition of the prisons is overcrowded, having inadequate dormitory or cells with too little space. In short, they are far from being appropriate for rehabilitation. This is totally against the minimum standard of prison prescribed by the law and Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress.

The researcher observed high concrete walls and towers within each edge surround a prison. The shelters are built from a metal sheet. Most of them are small in size without any recreational facility for the inmates and lacking appropriate physical features for the rehabilitation program. They are not effective to reintegrate inmates into society as a functional citizen. What is new for our current prison from the previous one is the existence of new laws that sufficiently support the rehabilitation of the offender. However, such laws sadly remain paper tiger with no practical implementation whatsoever. They have no arrangement of spaces required to implement tasks related to rehabilitation. An inmate who used to be a higher official of the former government (Derg) said that "Had we known that we would be in prison we would have spent our time in building good prison"²³⁶ The above remark tells us how much our prison are not programmed or designed for rehabilitation programs.

²³⁴ Personal observation

²³⁵ Ibid.

²³⁶ Conversation with Colonel Solomon Alehege former superintendent of prison, (Addis Ababa 2018)

3.2.3. Inmates categorization in prison

Classification of prisoners has a significant effect on implementing rehabilitation to its fullest extent. Classification is a system whereby inmates are divided into subgroups based on security and program need. They may also be categorized based on the condition of custody, level of supervision, and types of rehabilitation programs they are provided with.²³⁷ According to the relevant laws,²³⁸ a prison should have separate sections according to inmates' sex, age, and types of punishment. If we want to have an effective rehabilitation program, we also need to categorize inmates based on their personal needs.²³⁹ This enables the expert to identify the disease of a specific inmate and to prescribe the best medicine that can cure him. Focusing on the need areas that are linked to their offenses, as well as a broader rehabilitative need, such as those related to mental and physical health is also important.²⁴⁰

However according to my observation, when we assess the practice we found the case of FPK the contrary to the above arrangement requirements. To some extent, regarding separation based on sex, there is physical separation in which prisoners of different sex are imprisoned in different compounds. However, one cannot find any category, which aims the particular circumstance of inmates to rehabilitate them from their criminal behaviors. The minimum standards of the UN and the new proclamation of the prisons²⁴¹ requires categorization and grouping prisoners based on the particular circumstances of the pensioners; however, FPK is not structured in such a way.

They lack an acceptable level of separation which suite for rehabilitation program; On the contrary, the separation is more effective when done for security reasons. Even though inmates are separated into different categories, they are mixed and share all other facilities of the prison such as the cafeteria, sports fields with other prisoners including dangerous inmates.²⁴² This creates an opportunity for the inmates to interact each other which may result, more often than rare, an innocent person or less dangerous inmate become more

²³⁷ Andargatchew, Op.cit.note18. Page 182

²³⁸ Art 110 of the new criminal code ,Art 22 of proclamation No 365/2003 prison and article 33 of proclamation NO1174/2019

²³⁹ According to Rule 94 of Nelson Mandela RuleAs soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him or her in the light of the knowledge obtained about his or her individual needs, capacities and dispositions.

²⁴⁰ UNODC, handbook on the classification of prisoners criminal justice handbook series English, Publishing and Library Section, May 2020

²⁴¹ The preamble of proclamation NO1174/2019

²⁴² Field visit (Addis Ababa 1 may 2020))

dangerous by acquainting himself with sophisticated methods of crime and defense in front of court That is why, as it is stated before, prisons are said to be school grounds for lessons of criminal endeavors. One sees how much the problem is worse when the young and experienced dangerous and medium level inmates are imprisoned together and share all facilities in the prison. This arrangement is simply a violation of the constitutional right of these individuals, treating them as adults, It is also in breach of the law that provided their rights clearly including the right to be treated separately from adults in prison.²⁴³

In particular, since inmates are not segregated from one another based on the type of the offense they are convicted of, young and first time offenders are forced to be put together with other serious offenders with substantial criminal knowledge and tendencies. This situation creates opportunities for first-time offenders and young inmates to learn more sophisticated ways of committing crimes and evading the law and this may compel one to assume that correctional facilities are more of training centers for criminal enterprising than rehabilitation.

Concerning the issue of sex-based classification, our prisons once again are observed to be underachievers. Though in practice, women are imprisoned in a different building or separate section of the same building, the arrangement of the separation affects the interest of women and rehabilitation programs that may be provided to them. They rarely have access to the facilities of the prison, unlike the male prisoners. Their section is smaller and less cared for in appearance and operation than the male section. It is observed that it is only male prisoners who are allowed to use the facilities of the prison. Women are neglected, without any attention given to them at all; they occupy dormitory and a small space in front of a dormitory. And if they want any rehabilitation facilities or programs, they are obliged to attend such programs in men's fields. It should not be overlooked that most of the facilities are not appropriate for operating educational, vocational, and psychological programs for women.²⁴⁴

Juveniles are also found in an adult prison. They share all sorts of lifestyles with adults who are not their peers in for all reasons including education, views, etc. What these juveniles learn from the prison is what the prison teaches them that is criminality. As stated on a number of occasions, the very purpose of rehabilitation is to rehabilitate the offender and reintegrated them into society as functional citizens. Nevertheless, the non-existence of real

²⁴³UNMSP,Op.cit.note 213 article 33

²⁴⁴ Interview with Rahel Enedale (Addis Ababa 13 February 2020) *My client and inmates of FPK*.

classification or scientific classification significantly affects the program of rehabilitation thus making it impossible to get the needed fruit from it, i.e., crime control.

The lesser attention given for classification in our prison has a wide array of effects. Due to the non-existence of a separated prison for a mental prisoner, other prisoners are disturbed by the noise and unpredictable behaviors of the mentally ill inmates who tend to injure other prisoners. This is like rubbing salt to the wound for other inmates who are already leading the miserable life of the prison.

3.2.4. Regular education, technical and vocational education and training

3.2.4.1. The necessity of education, training, and development work

Rehabilitation service is like a hospital service. It holds general and specific remedial services that may help the patient to be cured of his sickness. A prison without a rehabilitation program is a concentration camp. It is education, which can make prison a rehabilitation center.

Researches indicate that education has a significant effect on the behavior of individuals. These in turn affect criminality. Education can help people to refrain from committing criminal acts and if they are criminal, it decreases the probability of their relapsing into criminal acts after serving punishment.²⁴⁵ Education shifts the attitude of prisoners to become functional individuals in society. According to studies, inmates that rejoin the society unskilled, uneducated, and the potential criminal are prone to commit a further crime and most criminal are from low-income society, which is also uneducated.²⁴⁶ FPK is evidence of this fact. Educating the prisoner may serve as a controlling crime mechanism by changing the offender into law-abiding citizens and help law-abiding citizens to continue as they were.

It should be understood that the expense of providing the inmate with higher education at the college level is cheap when it is compared with the impact on the social cost incurred due to recidivism. If the rate of recidivism decreased the cost of re-arrest and re-imprisonment also decrease in addition to improved crime control rate.²⁴⁷ Some people argue that providing higher education for inmates is wrong. They argue that inmates should be provided with less-eligible treatment, that educating them is to impose a burden on the taxpayer, and it may

²⁴⁵ Joseph Victor; (1999), *criminal justice*, page. 169.

²⁴⁶ Ibid

²⁴⁷ Victor op.cit., page.171

invite others to commit a crime.²⁴⁸ However, society should keep in mind that the expense of college is insignificant when compared with the expense of the damage done by the crime.²⁴⁹

In one research conducted in America, the cost of incarcerating for hundreds of individuals over four years is approximately ten million and for an additional one million of that cost, the same individual could be given a full four-year college education while incarcerated. Assuming a recidivism rate of 15% (contrary to 40--60 percent rate of the general prisoners), 85 of those initial hundred individuals will not return to prison. It is saving USA taxpayers millions of dollars each year and protecting the society from recidivist.²⁵⁰ Another research conducted in Texas prison shows that the recidivism rate for those without a degree is 60 %, 15 % for degree holders, 13.7% for an associate degree, 5.6 % for Bachelor's degree, and 0% for master's degree.²⁵¹ As we can infer from the research, the rate of recidivism increasingly decreases when the inmate becomes more educated i.e. recidivism decrease when education increase and vis-versal.

Inmates who take higher education in prison have a better rate of employment than non-educated and they develop behavior that is appropriate for conducting rehabilitation program. If they are educated, they would get employed and they pay tax and contribute to the general economy of the country.²⁵² In one prison in America, an inmate student and graduate who was provided with higher- education in prison stated that:

*'My involvement with the college has opened my eye to all and the things that were wrong in my life. Now I have a sense of priority, a sense of accountability and have made a legitimate promise for myself on which to build my needs are still important but not at someone else's expense'*²⁵³

When it comes to The FPK practices, it is an awkward experience. The reality in the Kality prison reveals the absence of an educational facility. As stated in sections of this study, there is overcrowding of prisoners in the prison that resulted in the inadequacy of educational facilities. It is also revealed that there is also a lack of skilled professionals that are equipped with the required knowledge of in a certain field of study. This is especially worse when it is compared to education facilities found outside the prison, and this has its negative impact on

²⁴⁸ Ibid

²⁴⁹ Ibid

²⁵⁰ Ibid

²⁵¹ Ibid

²⁵² Id, 172

²⁵³ Victor. op.cit. note.,page.172

the prisoners' future life, and the playground with the non-prisoners would not be leveled. It is also observed that the education system is only limited to the secondary level, and the opportunity for further study is not available. This greatly affects those who are in the preparatory and college level of study. Besides, this is a violation of their right to education, and a failure of the government's human rights duty. From these, it is apparent that the key role of education in rehabilitation is certainly ignored matter in the prison.

There is no credible data of prisoners to identify prisoners who have a special interest so that they could maximize their potential and interest. There is also the problem of reaching out to all the prisoners who are interested to learn. There are not enough workshops and other facilities for technical and vocational training. In addition, the availability of education and training documents is limited to those materials bearing the seal of the prison and there are no such resources provided from external sources. It is also important to highlight here that there is a capacity deficiency in the parts of the technical and vocational education trainers.

During the -group discussion with inmates, they stated that through education and vocational training need to continue strongly, they need an expert deeply trained with a certain profession. Even though there is no way of questioning the participation and benefit of development and education as well as the training, there are big problems in terms of attention, the problem of professional competency, lack of modern training approaches, and the absence of expanding skills by learning from the experience of others. There is no chance for a prisoner to learn other professions once he/she took one of certain training. The prisoners that come from Addis Ababa do not consider the option of education and training service in other prisons.

Though it believed that more learning will minimize the incidence of a number of crimes, the correctional facility's preparedness, to adequately teach and nurture young people with little or no schooling to become equipped with the knowledge to pass to secondary or higher education after completing the basic schooling process, in truth is very insignificant with almost no proof of such preparedness.

Even though there are a moderate number of good students, there is a problem of reaching out to prisoners. During the group discussion, it was observed, related to the technical and vocational education and training, the number of prisoners and the training places arranged do not balance. Added to this problem is that they are trained with non-updated design. There are no convenient places of training while skill training is considered the human resource

demand of the country. There is also the problem of training quality. All educations delivered in all centers are not included the conventional curriculum of secondary school education not to mention that there is a series inadequacy of infrastructure.

The other notable issue is the problem of producing market-oriented products that would be competent on the market. There is no support provided to prisoners in organizing and establishment associations that would be instrumental in changing the lives of prisoners. Weak and almost absent industry service in the prison, lack of improvement of agricultural and industrial development works in prison centers, failure to include legal prisoners in the development work are also the challenges faced by prisoners in terms of producing and marketing their products into the market. The so-called Tesfa vocational technique the one and the only college that is trying to deliver such services is unable to provide the required service in a proper and organized manner. In addition, there is no preparatory school that enables students with a high score or national exam of grade 10 to proceed to the next higher education. The service is not extended to prisoners who cannot afford the school fee of distance education. , The study also noted the problem of supervision where female prisoners are learning and training with male prisoners.

There is a sign of expansion of education coordinated with the educational bureau of the government to develop the educational and training capacity to ensure the participation of all prisoners on the principle that they all deserve to learn. The vocational training provided to prisoners is not delivered in a manner and intention to change the lives of the prisoners. The challenges take another form when there is also a problem of being market-oriented, a commitment to ensuring fairness and accessibility of education, and vocational training by all prisoners.²⁵⁴

Financial Means

Finance is very crucial for prisoners. Prison, in most cases, is not a lifetime issue, and the possibility of getting out of prison under different circumstances is always there. Hence, the question of whether prisoners have the finance or access to it is worth raising as part of this study. Prisoners are detained behind the cell for quite some time, and this inevitably causes a shortage of money. Hence, by the time they start to breathe the fresh air out of the walls of the prison, finance would become a critical issue. One may ponder how can they lead a new

²⁵⁴Personal observation and Interview with Antenehe Gbeyehu Head of Rehabilitation and Correction of Coordination office.

life? This is the very problem most prisoners face and render them pessimists about their prospects of future life. This may lead to motivation to rejoin a prison either due to lacking the means to lead a new life or by committing a crime in searching the means. The other contributing factor here is the perception of the community toward prisoners. Most individuals are not welcoming to a prisoner in many aspects including offering a job. This issue is exacerbated by the absence of means of earning in the prison. Comparative experience in this regard shows that prisoners who are engaged in so many works while in their stay in prison are capable of earning money. This undoubtedly helps their re-integration into the community. The practice in this regard, in the prison that is the subject of this study, shows the absence of such a scheme and it is also one of the issues the prisoners worry about while they think about their future.

3.2.5. Recreation

Life is different for the inmate in prison and the absence of a recreational facility by itself makes the life of prison worse. Inmates need recreation, in which they can lubricate their life in prison. Recreation includes sport, a TV that can provide entertainment for them. In FPK, recreational facilities are virtually absent and the structure of the prison itself is not appropriate to avail of these services due to the overcrowded population and small size of the area of the prison. There are some kinds of sports fields to play volleyball or soccer and other recreational facilities like TV programs are found.²⁵⁵ Nevertheless, when we compare the magnitude of the services with the number of inmates who needed such refreshing, they are insignificant. The prison committee also runs cafeteria and shops where hot and soft drinks are sold. With exception of these services, one can not confidently say that recreational are available in the prison. Most of the time inmates spent their time without work or recreation; they are in most of their time in prison idle which might cause them to think about criminal activities.

3.2.6. Religion

Researches indicate that there is a strong relationship between religion and behavior.²⁵⁶ The involvement of an inmate in religious activity keeps the inmate busy thus; there would be less or no time available for other illegal activities. The inmate with strong religious attachment is

²⁵⁵Personal observation and group discussion with inmates.

²⁵⁶Anderson, Op.cit, note 6-page-75

less likely to commit a criminal act than one who has a weak religious attachment.²⁵⁷ Teaching what they receive from a pastor make them conventional and pushing to become a religious man who considers committing a crime as a sin.²⁵⁸

Since most of the inmates have a certain religious belief they follow, they can be attuned to acceptable ethical conduct though their respective religion in addition to practicing their religion. However, except arrangements to address a limited number of inmates to go through training and self-development initiatives, there is no structure specifically designed to use religion as a behavioral change mechanism and assist the development and empowerment of inmates.

In this regard, the research has noted that FPK does not emphasize this effective mechanism of crime control. Even if there are small houses that are built to conduct religious activities, the nevertheless fail to have a significant effect on inmate behavior. There are no religious leaders who teach the prisoners to acquaint themselves with religious law and pushing them to become committed to their religion, which consecutively affects their behavior positively. Hence, the problem here is twofold. For one thing, there is no adequate place for religious practice given the diversity of religions practiced in a prison. Secondly, religious leaders play a prominent role in any religion, in FPK; however, there are no religious leaders. These all affect two things. Religion is a fundamental right of every individual, and in this regard, prisoners seem to have been denied their freedom to religion. Secondly, and most importantly, religion is a tool for rehabilitation when it comes to prisoners. The government's responsibility concerning human rights like the duty to fulfill one's duty to his religion should not be taken lightly.

3.2.7. Vocational program

Most inmates are captives of "economic failures" as they do not have the skill and work ethics to perform gainful, legitimate employment when they release.²⁵⁹ Most of their time is wasted in idleness or working for the government which has no any income and knowledge or skills that personal benefit them In Shewarobit prison (medium-security prison), there is a vast, Farming activity which generates a huge amount of income for the prison by providing different crops and fruit for the community. However, here in FPK, though inmates are

²⁵⁷ Ibid

²⁵⁸ Ibid

²⁵⁹ Barlow op.cit.,page 425

maximum-security pensioners²⁶⁰ than that their counterparts of Shewarobit there are no rehabilitation programs, which fit the longevity of imprisonment of an inmate in Kality. The practice in FPK is ironic when it is the place that needs better rehabilitation programs than in ShewaRobit where prisoners are less security watch. The inmate in FPK does not get enough income to change their lives or that of their families. Since inmates have no work they cannot have money that may help them when they are released.

There is an attempt to introduce some vocational education like metalwork, woodwork, garment, furniture, etc. Nevertheless, when we compare the capacity of the programs with the number of inmates, who are interested to attend the program, we found it far less than sufficient

Vocational activities such as garment making and metalwork are not operated fully and inmates are usually willing to part take in such activities to only get probation. Inmates have no skill at all even after training and awarded with a certificate. This is because of the non-operation of the program in its full sense. Most of the inmates who generate income for themselves work with their tools and equipment and produce woven material. However, due to a lack of market, they do not get what they expect from their work.

Due to these reasons, inmates are released into the community without any economic capacity and skill and cannot support themselves and their family. They may return to prison due to their inability to integrate with a complex society. Nevertheless, a prison should help inmates to become employable to protect society from crime and saving the money of taxpayers.²⁶¹ As we can infer from all laws that we have discussed before and as the prison itself put it at the gate of the prison, to rehabilitate inmate is the mission of FPK. However, reality shows that it is more of a concentration camp than a rehabilitation center for inmates. This is totally against the very purpose of the establishment of the prison.

3.2.8 Social cost minimization

Punishment has a side effect and its implication is not restricted to the offender. It implies the taxpayer, the family of the offender, and the career of the inmate. As we have discussed earlier the prison is not successful in its rehabilitation programs. The money that has been invested in the program becomes wastage, the family who is dependent on the offender disintegrated, and the offender himself becomes a non-functional citizen and becomes

²⁶⁰ Inmates are sentencing for long period of time.

²⁶¹ Barlow op.cit.,page. 425

dependent on the country or becomes a threat to society by committing another crime. As an institution charged with the responsibility of rehabilitating offenders, the prison is not effective in executing rehabilitation program.

According to my observation and response of key informants, the prison has no programs which can compensate for the social cost of punishment. What the prison produce is what the inmates receive as it is delivered except for those few who are changed by imprisonment itself. Most offenders get out of prison with the same mentality they had when they committed the crime.

Rehabilitation is not about changing behavior or tendencies but is a process directly related to the rights of children and the society itself. When a person is imprisoned, especially in the context of our country, the family of the person collapses mainly because the person is the breadwinner for his family and children become victims of the streets. The imprisonment of a person has consequences not only to himself but also to the family whose livelihood depends upon. Children will be without their father and lose their right to have the love of their parents due to the conviction of their parent. The taxpayer that contributed to the financial need of the correctional facility that feeds the keep an eye on the prisoner, will be once again the victim of the same prisoner that were incarcerated unless such convict is rehabilitated upon being released from the prison.

Having this in mind, therefore, the finance spent to keep an eye on the prisoners would have more collective benefit if it is used to develop infrastructures and implement rehabilitation based on the very essence and purpose of punishment. It is easy to see that a collapsed family would entail criminal acts due to unstable life that follows the collapse of the family integrity. However, if the inmate can engage himself in productive activities that could earn him an income and is healed from the criminal mentality, the inmate could keep his family together and save the family from failing. This, in turn, would not only save the family but also safeguard the public from being victims of a family whose livelihood is destroyed and pursues criminal acts due to economic needs.

3.2.9 Source of labor.

Seeing the number of inmates who are sitting idle in the prison ²⁶² anyone can understand the wastage of labor and skill. According to Federal Prison, Proclamation inmates have a right to work and the prison also can compel prisoners to participate in productive work with reasonable payment without breaching the national laws on the matter.

However, when observing the prison, it was seen that there is no work opportunity for the inmates. Despite the presence of some cooperatives, which are organized as a partnership among inmates, the number of cooperatives and the number of inmates work in the cooperatives are small when compared with the total number of inmates. According to the head of the coordination office of rehabilitation of the prison, ²⁶³ the capacity of the cooperatives is only 10 percent of the total prison population. This may lead us to conclude that the prison administration is not in line with what the law dictates and is against the very principle of rehabilitation. If the prison had engaged them to work, the prison would have generated money to minimize the burden of taxpayers and subsequently would have helped the inmate to reintegrate into the society without economical problem, which is important in decreasing the rate of recidivism.

The rehabilitation facility also lacks a structure whereby inmates are engaged in a number of labor-intensive activities and to transform the individual skill and labor of inmates into production which would facilitate the correctional facility to be self-sufficient in terms of finance and become an independent self-sustained entity. A good and practical example is some prisons in America where the cities the prisons are located solely depend on agricultural products from the prisons.

Engaging inmates in several revenue-generating activities not only assist inmates to support their families but it also has a significant advantage to change the paradigm of inmates whereby they look towards returning to the normal productive life without relapsing to their criminal acts and thus significantly reduce the magnitude of criminal offenses. However, though this is the fact, the correctional facility fails to function based on this notion except shepherding the inmates until they complete their prison term and freed to join the society,

²⁶² They were almost around 3455 before the pardon proclaims to some criminals due to the current political social conditions of the country. .

²⁶³ Antenehe Gbeyehu.

which is a proof that the correctional facility is not operating in a manner that it will achieve the basic purpose it is established for.

3.2.10 Decreasing recidivism

Marelize Schoeman a senior lecturer at the University of South Africa had defined recidivism as follows:

*Recidivism is a behavior process or pattern whereby an offender, who was previously found guilty of a crime and sentenced in a court of law, commits a further unspecified offense (within the survival period) and is found guilty of this offense, and receive a further undetermined sentence in a court of law. This definition provides a scientifically based framework whereby an offender can be classified as a recidivist.*²⁶⁴

International studies presume that recidivists are liable for a majority of the crimes committed. Within a criminal justice framework where legal resources and correctional institutions are already overcrowded, recidivism is a common phenomenon.²⁶⁵ Ethiopia is not also an exception. According to my observation and as I have discussed in the preceding section the FPK is overloaded with offenders.

As the prison has no system to register recidivist there no official statistics on the rate of recidivism in the prison. Not only recidivism is not formally defined, but also recidivists are not identified by the administration of the prison. There is no existing system whereby an offender can officially be classified as a recidivist. If a system does not have statistical data about the recidivism rate of its prison, it would likely be difficult to plan and tackle the problem. The recidivism rate is important for the formulation of policies and to a considered measure of correctional and judicial systems' performance.

According to international studies, for a criminal justice system to be successful, it has to apprehend, convict, and punish recidivists. It is also believed that a small proportion of offenders commit the majority of offenses in most societies.²⁶⁶ Therefore, it is agreeable to reckon that without rehabilitating this small portion of the group, the effectiveness of a criminal system would be questionable.

²⁶⁴ MarelizeSchoeman, recidivism:January 2010,a conceptual and operational conundrum, research get publication,page 91(16)

²⁶⁵Ibid

²⁶⁶ Ibid

When it comes to FPK prison, it would be appropriate to state that without a system of registration of recidivists, with no knowledge of the rate and number of recidivist within a given year, it is difficult to say they are or would be successful in the rehabilitation of inmates. Failing to classify recidivists as a group and tailoring the rehabilitation process accordingly to change their criminal mentality obscure the realization of the primary purpose of the prison that is decreasing recidivism.

3.2.11 Decreasing the effect of wrong convictions

Due to our criminal system being dependant on witnesses and its weakness to function as a system, the probability of the criminalization of innocent people is presumed to be high. Punishing these innocent people in the prison is pushing them to become the potential offender who will become a threat to society when they are finally released from prison. However, rehabilitation can be the best mechanism to reduce their anger and to show sympathy. However as we have discussed in the previous sections due to the ineffectiveness of rehabilitation as a system in the prison, the prison has been failing in decreasing the effect of wrong conviction which consequence starts with pushing innocent inmate and extends to creating potential criminals that would become the danger of the society.

3.2.12 Aftercare program

The aftercare program is a service organized for the rehabilitation of ex-offenders released from correctional institutions. In some cases, convicted persons serving time might also be enrolled in aftercare programs for probation. The objective of aftercare is the full reintegration of ex-inmates in society after finishing their prison term to prevent them from being involved in yet another act crime.²⁶⁷

Re-socialization of an offender by individual treatment is the ultimate objective of probation, parole, and aftercare. Although they are formulated to serve the same objective, they have significant differences. Probation is a procedure in which a convicted person is allowed to continue living in the community or aftercare organizations but will automatically be sent to prison if he violates certain conditions imposed by the court and will remain under the supervision and guidance of a probation officer. On the other hand, Parole is a treatment

²⁶⁷C.L. Wasan, *after care organization* ' *Journal of the Indian law institute* ,vol 13/4, page 518

program in which an offender, after serving part of a term in a correctional institution, is conditionally released under the supervision and treatment of a parole worker.

The former two are conditional upon the observance of regulations set by the court or parole authorities. Their violation can lead to termination of liberty of the probationer or parolee. But in the case of aftercare ex-inmates do not lose their liberty. When ex-prisoner come out of prison, he is likely to be confronted with many challenges, among which the difficulties related to unemployment, social stigma, shelter, disintegrated family, new social world are the most pressing ones. If we do not address his problem, he is forced to go back into a dishonest way of life. Rehabilitation in the prison without an aftercare program is a wastage of taxpayers' money. Rehabilitation by itself cannot stop recidivism if aftercare programs are not in place to complement it.²⁶⁸

According to the criminal code of Ethiopia establishing aftercare, an organization is necessary. The following text from code shades an alight on how the law considers aftercare programs as the very future of the rehabilitation of inmates or convicted persons.

*Supervision by a charitable organization is an essential feature of the system aiming at obtaining good results from the enforcement of penalties and measures and the various methods whereby such enforcement is carried out. The placing under the supervision of a charitable organization is compulsory in all cases where the law so provides. In all other cases, a criminal either conditionally or finally released may at all times voluntarily have recourse to the help or assistance of such an organization. The responsible charitable bodies shall be bound to afford him their assistance.*²⁶⁹

When the law explains the purpose and duties of aftercare programs²⁷⁰; it dictates that the duty of the organization consists of counsel, guidance, and moral and material assistance with a view of achieving the purpose of reinstatement, which is aimed at and forestalling a future relapse. The organizations, which are built for the aftercare programs may provide employment for inmates or convicted persons or find employment for them, or assist them in finding, work, an employer, housing, or relief, direct them as to the proper use of their

²⁶⁸ Ibid

²⁶⁹ Article 208 of the criminal code of Ethiopia

²⁷⁰ The terminology that the law uses for aftercare program is charitable organizations.

savings or earnings and, generally, give them every other support necessary to enable them to lead an honest life.²⁷¹

The organization can be established by the government or by the association or groups of a public or private nature, which devote their work theretofore the said purpose, with the assistance and under the control of the State.²⁷² As we have discussed earlier, despite the requirement of the law for the establishment of such organizations as mandatory, we have yet to witness such a functioning organization or institution in the country. The law also proclaims that the detailed conditions shall be subject to regulation by law, but we do not have the detail or the organizations.²⁷³

Though the criminal code stipulates the mandatory establishments of protection and collaborative institutions to protect inmates during imprisonment under certain restrictions and to take the appropriate actions depending on the improvement of such inmate, the absence of such institution makes released prisoners vulnerable to economic challenges, therefore, to be forced relapsing into criminal offenses. Lack of information on the identities of multiple time offenders by itself is a demonstration of the failure of the system which would ultimately have a significant impact on the criminal investigation and courts proceeding.

If there was a certain institution responsible to monitor and support released prisoners by arranging or facilitating shelter or sustenance until they become self-sufficient and that engages them in any skill they have trained (if any), the rehabilitation activity would have been more sustainable and would have had a significant positive impact. Since most prisoners are encountered with destroyed family and support networks there should be a system that would prepare them for such unfortunate fate and pass such devastating time without being overwhelmed when they get out of prison,.

As noted on several occasions in the preceding section of this paper, the very purpose of rehabilitation is a reintegration of the inmate to the community but the prison does not develop an aftercare program. Inmates are not rehabilitated in their duration in the prisons. They have no skill or capital to help themselves after release. Especially those who are imprisoned for long-term are lost their contact with their family, relatives, or friends are

²⁷¹ Article 209/1 of the criminal code of Ethiopia.

²⁷² Article 210/1 of the criminal code of Ethiopia .

²⁷³ Ibid article 201/2.

release to the society without anything due to this the last resort they have to do is returning to their previous work that is a crime.⁶⁶ Concerning this, the practice revealed that it is a long way to go, and so far nothing was done. As repeatedly mentioned, rehabilitation emphasis on re-integration of prisoners into the community thereby reducing recidivism. In this respect, there is no aftercare guideline issued so far. Hence, the implementation of the program is not known and the system is not established yet. There is no mechanism to examine prisoners' post-prison life, and whether they rehabilitated as intended is not evaluated. This shows that the rehabilitation system is not pragmatic. This questions the very purposes behind establishing these in situations. Concomitant to this, the failure to establish some organization that helps the aftercare program is also witnessed in the practice. As well addressed in the preceding parts, the Criminal Code provides for the establishment of a probation and parole commission that among other things entrusted with the power to examine and facilitate prisoners' release and their post-release life. Mainly, it helps to know whether the prisoners subject to probation and parole are undergoing as intended. Without putting such an institution in place, one cannot be daring enough to talk about the rehabilitation of prisoners. Besides, it is not an exaggeration that the world is in constant change. The way people lead their life, manage their work and other aspects of life will be advanced every time. The advent of technology also proves this. Hence, how could prisoners be equipped with this changing environment, and who is responsible for lessons on how to keep with the changing world? The answer to these questions is a base for their re-integration. In some cases, some prisoners stayed for more than a decade, how could they rejoin with the virtual society, for instance, while they are living in the physical world. Hence, re-integration supposes an institution that creates dynamism in the prisoners.

3.2.13 Probation

The absence of institutions, as stipulated under Article 209 of the Criminal Code, that would accommodate released prisoners until they start working and provide the skill necessary to mix with the public and that assess whether the lifting of the sentence was appropriate, has resulted as though it seems offenders were released in impunity.

In the absence of such intuitions, applying limited sentencing is indeed contrary to the criteria set by the law-making such decisions unfairly. This is because such decisions violate the essence of the law which provides that unless inmates that failed to pass the assessment period or demonstrate regret for the crimes they have committed and if there is not

confirmation proving that they would not pursue any criminal activities, such offenders should be re-incarcerated in addition to being convicted for the new offense, that they committed while under such assessment period, they have been proven guilty of.

There is no plan in the correctional facility that guideline who should be under the rehabilitation scheme, how and by whom such rehabilitations and training should be given. The absence of a module that guides the rehabilitation and teaching activities and programs is a testament that such rehabilitation activities are symbolic and procedural and secondary issues to the correctional facility. Administration and management members of the correctional facility do not have any responsibility whatsoever for questions such as the types of programs that assist the rehabilitation activities and the human resource requirements of such programs

3.2.14 Counseling

Prisons are self-community in which varieties of social problems may arise. Inmates are deprived of liberty and separated from friends and family and they are deprived of goods and services and heterosexual relationships which lead them to the frustration of sex need etc. Most of them have failed to develop self-confidence and self-control. Thus, deprivation like personal autonomy, security, heterosexual relationship, etc leads them to psychological problems.²⁷⁴

Regarding their psychological and socials problems counseling has a significant effect on the behavior of inmates. Especially to help do adjust themselves to the frustration of intuitional life, to then to notice that emotional conflicts as criminally and to create an opportunity to lesson from their friends about the social aspect of one's personality.²⁷⁵

Counseling can be conducted in-group, which allows several inmates to be treated are at the same time and they discuss their feelings and attitude. The main objective is to create mutual acceptance and a supportive environment and giving casework for them to help to realize their capacity, change by advising them on how to solve problems of daily living and acquainted with social life.²⁷⁶

²⁷⁴ Adler, op.cit.,p.414

²⁷⁵ Andarghew, op.cit.,p.183

²⁷⁶ Ibid

Counseling is conducted with a help of professionals like psychologists, psychiatrists and sociologists who have a significant role in the counseling of inmate to solve inmate problems relating to their problem and that of the community.²⁷⁷ But in FPK such kinds of professionals are not found and originally the concept of counseling does not develop, on the contrary, a correctional officer is control prisoners by a force that is contrary to the purpose of rehabilitation. According to a key informant even if there is some consoling at the beginning of reception of inmates, which is not helpful not needs a base and has no continuity.

3.2.15.Parole

The notion of parole rests on the good behavior of the prisoner, the inmate released from prison after a certain period of sentence elapsed. However, to grant Parole it needs a yardstick to do that and a supervising of the parolee after release.²⁷⁸ In other countries, the parole officer has to supervise, helping, and controlling their inmate. He assists them to integrate into society and help to challenge the obstacles they may face in the process of reintegration. His help may extend to help the inmate up to getting employment and counseling in family and other social matters; and on the contrary, the parole officer may also revoke the parole if the parolee act to the contrary to the yardsticks or commits other offenses.²⁷⁹

FPK does not work based on the above principle. Even if they have the concept of parole in their program but it is conducted without any scientific method and control mechanism. They have no a committee or other organ, which study and follow up the behavior of the inmate, which is necessary to, granted parole for the inmates and to control or supervise them after their release.²⁸⁰ If this system is not applied the very notion of parole that is rewarding those who have good behavior cannot be achieved.

No system adequately assesses if a certain inmate qualifies for early release. It has been noted that in the correctional facility a certain inmate is said to have improved or rehabilitated if he does not commit a serious offense or demonstrate grave misbehavior while he stays in the correctional facility. Furthermore, the assessment, which is expected to be conducted every six months, is just symbolic which is filled for the sake of completing the procedure and the

²⁷⁷ Id ,184

²⁷⁸ Ibid

²⁷⁹ Ibid

²⁸⁰ Interview with Antnehe Gbeye (BA in businesses management, 13 years of relevant experience) (Addis Abeba 1 may 2020)

assessment does not in any way take into consideration to what extent the subject inmate has been rehabilitated or improved. Such early mechanisms have become nothing but routine procedures rather than a reward for self-improvement.

There is no formal system to monitor the progress or conduct or the status of inmates after their release from the correctional facility and as the result, the correctional facility is unaware of the status of inmates once they are released. Putting aside such subsequent activities, there is not even a system to know if a former convict has been incarcerated in the correctional facility again. In this regard, the efficiency of a certain correctional facility could not be assessed if the offense of certain multiple times an offender gradually decreases. Since most correctional facilities have large populations of prisons, the purpose of releasing prisoners under parole and pardon schemes are primarily availing space for more prisoners not because granting such entitlements ascertained to be appropriate.

3.2.16. Pardon

Pardon also can play its role in the system of rehabilitation if it is periodically, without any political motivation and extensive study the inmate. Giving pardon periodically for those who are rehabilitated is another way of reintegration of the inmate into society. If a certain inmate rehabilitated through the processes of rehabilitation incarcerated him up to his conclusion of a sentence is wrong. It may disqualify what is done in the rehabilitation program. The prison has unpatriotically periodic pardon but it is not systemic and it is politically motivated. Sometimes the prison is forced to release inmates due to the overcrowding of the prison.

3.2.17. Court-related problem

On the other hand, our courts, whose judiciary purpose is more inclined to putting offenders into prison, have made the rehabilitation and correcting behaviors of offenders more challenging. Despite the recommended penalty alternatives in the criminal code such as courts may want to look at other penalties such as community services and mandatory service on infrastructures for an extended period; to arrange assessment timeframe for convicted offenders to see if such offenders reflect on their misbehavior and give them a chance to prove that they have regretted their acts and are committed to redeeming the public, the courts have played an essential role in incarcerating every one regardless of the severity of the offenses leading the congestion of prison population and forcing offenders to commit offense again.

Out of the 500 convictions ruled by the High Court in 2011, only 100 of the cases were limited in alternatives punishment, while the rest were directly put into prison. Subsequently, since the convicts put into prison are, most of the time, not rehabilitated and are released without being assessed if they have genuinely improved, the release of the prisoners failed to minimize the repetition of the offense.

CHAPTER FOUR

CONCLUSIONS AND RECOMMENDATIONS

There are different kinds of punishment ranging from those affecting the pecuniary interests of a person to the loss of life. Included under penalties imposed for the transgression of criminal laws are fine, compulsory labor, imprisonment, and death. All these are painful and implemented by an organ entitled to monopolize power under a given polity. Punishment is as ancient as history. It evolved from one that involves retribution /Laws of Hammurabi- an Eye for an Eye/ to the modern-day philosophy of punishment, that gives special emphasis to rehabilitation. Punishment can be a death, imprisonment, or a fine which is/are painful and intentionally applied against a person who the law and implemented by an authority. It is as ancient As history notice us it evolved from an eye for an eye doctrine up to a humanitarian approach; from the business of the individual to the business of the state and from custody and control up to rehabilitation.

That being the case different legal systems subscribe to assorted purposes of punishment. Punishment has a purpose, which it will go to achieve. Some emphasize It may be retribution in which the offender deserves to be punished the same way as what the victim of his criminal suffers. Deterrence may also be the purpose of punishment in which the chief aim of the punishment penance is to prevent those with dispositions to pursue criminal activities from disobeying the laws. A crime committed by the offender himself or other persons can be controlled by the punishment of the offender. The contemporary approaches to punishment particularly accentuate rehabilitation and reintegration of convicts. The underlying assumption being the state of mind of the person is the main driving force for him to engage in furtherance of criminal behavior. Thus, ameliorating this psychological related condition of the person should be the very purpose of punishment. In general, according to due notice to both the offense and the corresponding punishment the primary aim of which being safeguarding the society and its peace and security should be of paramount importance to any criminal justice system.

Though due regard has also been given to other purposes of punishment in line with the contemporary discourse applicable to the purpose of punishment our criminal justice system also adopts rehabilitation as its primary purpose.

One or more of the above purposes may become the purpose of punishment whatever the case the purpose of punishment is safeguarding the society from harm and danger by giving

due notice of the offense and due notice about a penalty. Our Criminal Code also has its purpose that it will go to achieve, but rehabilitation is a significant purpose of the code among other purposes of the Code like deterrence.

Both internal factors as well as external pushing factors determine the criminal behavior of an individual. The behavior of an individual is determined by internal and external factors, which may lead, him into criminal activity. Some psychological factors like defective conscience, emotional immaturity, inadequate childhood socialization, maternal deprivation, etc may evoke criminal behavior and lead individual into criminal activity. Some biological factors such as genetic abnormality, low IQ, abnormal level of sugar in the blood, etc, and some sociological factors like culture may also cause criminal behavior.

Despite relentless efforts to control the incidence of crimes through a variety of mechanisms, our country is far from mitigating the ever-increasing crime rates and individuals with criminal dispositions. Policies, systems as well as strategies put in place so far are proved to be far from adequate for fully comply with the legal framework pertaining to the purpose of punishment. Thus the prevailing state of affairs calls for adequate attention be given particularly to the chief purpose of punishment under our criminal code. All the required measures in terms of commensurate programs, systems, and infrastructures need to be taken by the government so as to ensure compliance with relevant legal frameworks. As history tells us even if different kinds of crime control mechanisms were applied, we are still confronted with the problem of crime. The degree of crime and the number of criminals dramatically increase. The previous a mechanism has proved fruitless so we should have tried to solve this we need a shift of paradigm that is rehabilitation that is a new paradigm that is proposed as a solution for the problem of crime.

It is possible to reform the offender through the programs of rehabilitation such as health, religion, education, prison labor, counseling, and treatment programs- through which the offender would be rehabilitated and reintegrated into the society. Rehabilitation also minimizes the social cost of the country by increasing the productivity of an offender. At the same time, it helps to subside the vicious behaviors of the individual by decreasing the destructive behavior of that individual. The contribution of rehabilitative punishment towards the economy is another issue that makes it the most preferred approach. Rehabilitative punishment would also help in balancing the power relationship explained in terms of imbalance between the government represented by the prosecution office and the person who

has been defending criminal charges in a court of law. It has also a latent function like used as a source of labor. Rehabilitation also a better approach in a legal system in which the balance between the accused and the public prosecutor unbalance.

Other aspect of punishment namely parole is not given the attention it deserves. Institutional arrangements for effectively implement parole are still non-existent. Had it not been for lack of attention to this aspect of punishment parole would have immensely contributed to ensuring rehabilitation and reintegration of convicts. Parole and pardon are elements of rehabilitation through them rewarding offenders for their good behavior during their duration in the prison in which they are effectively rehabilitated.

The main focus of this Research namely Federal Kality Prison is not designed in such a way to ensure compliance with the legal framework as it pertains to the purpose of punishment. All the necessary institutional arrangements and infrastructures for ensuring effective rehabilitation of convicts are yet to be put into operation.

Despite the adoption of systems that give due attention to rehabilitation as the principal objective of punishment the criminal justice system of the country still enforces penalties that are glaringly incompatible with such chief objective like the death penalty with all its surrounding drawbacks. When we come to FPK, the above all notions are not effectively implemented. The prison has no suitable conditions to implement rehabilitation and reap the fruit of it. The existence of the death penalty as a punishment is contrary to the very principle of the legal system itself that is rehabilitation the non-deterrence effect of the death penalty, the mistake committed during the execution process and its discriminatory nature minimizes the domination of death penalty in the legal system of any country. Especially the existence of the death penalty in a legal system that follows reformatory justice like Ethiopia is wrong.

The face lifting measures recently introduced does not seem to be of much help to the rehabilitative efforts of FPK. The entire institutional arrangement needs to be overhauled in view of its primary function of rehabilitating convicts. Attitudinal issues such as public misconceptions in relation to the purpose of punishment and inadequate attention given by the government are adversely affecting efforts to put in place a full-fledged rehabilitation scheme by the prison administration and the authorities of prison centers like Kality Central Prison of convicts in a sustainable manner. The Prison is not also comfortable to implement rehabilitation, even if its upper cover is changed but its inside conditions the same as before. It is good for control and custody but not for rehabilitation. The reasons why our prisons

weaken to implement the purpose of rehabilitation are the attitude of the public, the less concern of the government, and the prevalence of less eligible philosophy.

The structure of prison that was not originally designed to serve as a prison also contributes a lot for efforts to effectively put into operation all the necessary measures ensuring rehabilitation of victims in a sustainable manner. Overcrowding and its adverse impacts on efforts to put in place the full breadth of rehabilitation schemes seem to be attributable to the physical setting of the prison, which was not initially built to serve as a correctional facility. On top of that within the existing inadequate institutional arrangement some highly decisive is not initially prepared for rehabilitation but for control and custody, which are built without a plan, is overcrowded, small in size, no rehabilitation program and They have no scientific classification method. Some kinds of classification like sex classification are nominal which does not achieve the purpose of rehabilitation. Due to these, they are a school of crime in which one inmate learns crime from the other inmate. Some rehabilitation programs such as educational, recreational, religious, vocational, and aftercare programs are not effectively implemented to achieve their original purpose i.e. rehabilitation. Some important elements of rehabilitation parole and pardon are also do not conducted in our prison in their full sense. They are not effective at all. According to these, I propose the following recommendations: In view of the findings, the writer of this research report put forth the following key recommendations

Need to address overcrowding of the prison: One of the findings of this research is overcrowding and its adverse impact upon rehabilitation initiatives of the prison center. This in particular is a major impeder with drastic consequences on efforts by the prison administration to help inmates successfully gone through the entire components of the existing rehabilitation programs of the prison. Thus, tailored measures that effectively address this problem of overcrowding should be taken. The judiciary should give particular emphasis to other alternative modes of punishment as incorporated in the Criminal Code of Ethiopia especially for those found guilty of minor offenses. The Federal Prison Administration should also give the required emphasis to address this crucial problem through designing and implementing specific programs that aim at accommodating the ever-growing inmates population. is among many problems that the prison faced. Overcrowding leads to the deterioration of conditions and hinders rehabilitation programs. Therefore minimizing overcrowding is essential. As we can infer from the federal high court experience a large proportion of the prison population has been sentenced for minor offenses. So

diversion must be injected into the criminal legal system, Diversion from the criminal justice process to appropriate treatment programs and alternative punishments. Therefore, it helps to minimize overcrowding of the prison.

More emphasis on rehabilitation in its broadest sense: More emphasis on rehabilitation would address the problems of proliferation of recidivism as well as the rise in the number of potential criminals. Efforts to control the increase in the number of crimes need commensurate punishment procedures that give due attention to rehabilitation. Incarceration without any contingent programs of rehabilitation would not help efforts to address both pushing as well as pulling factors in relation to criminal behavior. All aspects of rehabilitation such as the physical setting of prisons, classification of inmates, educational and recreational facilities as well as other psycho-social support provision facilities need to be revisited in such a way to ensure the effectiveness of rehabilitation programs of the prison. Using prison for the control and custody of offenders does not use as machinery to control crime. The existing practice of prison should be changed and prepared them for rehabilitation programs their physical structure, their classification methods should be changed and make them large to conduct rehabilitation programs such as recreational facility and prison industry.

Education and training as an effective means of rehabilitation should be emphasized: In the context of prison and principles applicable to rehabilitation and reintegration of inmate's education in general and vocational training in particular plays a critical role. As such the existing education and vocational training programs at the prison needs to be re-examined in such a way to make sure they effectively serve the rehabilitation and reintegration schemes of the criminal justice system in general and the prison administration in particular. Related to this the contribution of particularly vocational training and products produced in the course of the training to the national economy should not be overlooked by the prison administration.

Rehabilitation programs like, vocational training has a significant effect on the offender so they should be conducted to rehabilitate the offenders and to contribute their part to the general economy is of the country.

Education is an effective program of rehabilitation through which the behavior of inmates may change to rehabilitate inmates and to make them productive citizens of the country. The educational program of the prison should conduct effectively and upgraded up to the university level.

The role religious activity plays in ensuring rehabilitation and reintegration needs due attention: The role religion plays in positively shaping the behavior of individuals is indisputable. Accordingly, the prison administration should give due attention to the role religious thoughts and practices contribute to efforts to ensure rehabilitation of inmates. The establishment of cooperation and collaboration with religious leaders of all officially recognized religion of the country would surely contribute to efforts by the prison administration to ensure the success of rehabilitation programs that, among other things, considers religion to be its crucial component. The free exercise of freedom of religion in prison settings in line with generally accepted principles applicable to the same should be duly considered by the prison. The administration should also - have to exercise in prison extensively and religious teachers like the pastor should be employed to reach them and develop their religious understandings that also rehabilitate the offender.

The economical capacity of inmates should strength when they are in prison and follow up with them after release to make effective rehabilitation.

Other Measures that Contributes to Rehabilitation Should be Equally Accentuated: Our criminal justice system does incorporate measures considered crucial for ensuring the rehabilitation of inmates. Parole is one such mechanism incorporated under the criminal justice system. Yet the prison administration never gives the required attention to effectively put into operation this scheme of the criminal justice system. Thus, the prison administration and other key stakeholders that aim at ensuring the effectiveness of this scheme should take all the necessary measures. Pardon and parole should be conducted effectively and scientifically based on the study of the behavior of individuals and pardon should be periodical.

Post Release Schemes Needs to be emphasized: Prison setting rehabilitation schemes alone might not be sufficient to ensure full reintegration. Most often, than not additional measures are implemented to ensure full rehabilitation and reintegration of inmates are implemented in most criminal justice systems. Post-release care and support programs are the most notable ones in this regard. Thus prison administration must design and consistently implement post-release rehabilitation and reintegration programs as well as develop commensurate physical as well as institutional infrastructures.

As the very purpose of rehabilitation is the reintegration of inmates into society as a functional citizen, the aftercare program is mandatory. Therefore, Aftercare programs must be started, the institutions that are in charge of the reintegration of inmates into the society must be built.

The death penalty should be abolished: In general legislation, frameworks should be revisited to ensure their compliance with the very principles of our criminal justice system. Legislation, which was enacted and will be enacted, should have to base on the very principle of the legal system i.e. reformatory justice. That being said capital punishment that is clearly incompatible with this overarching principle of the criminal justice system should be abolished. Some articles of legislation, which allowed capital punishment, should avoid which has no any reformatory purpose and need some revision.

Punishment can be a death, imprisonment, or a fine which has painful which is also intentionally applied against a person who the law and implemented by an authority. It is as ancient As history notice us it evolved from an eye for an eye doctrine up to a humanitarian approach; from the business of the individual to the business of the state and from custody and control up to rehabilitation. Punishment has a purpose, which it will go to achieve. It may be retribution in which the offender deserves to be punished. Deterrence may also be the purpose of punishment in which crime committed by the offender himself or other persons can be controlled by the punishment of the offender. Punishment may also have a purpose of rehabilitation in which the offender is rehabilitated and re-integrated into society as a functional citizen. One or more of the above purposes may become the purpose of punishment whatever the case the purpose of punishment is safeguarding the society from harm and danger by giving due notice of the offense and due notice about a penalty. Our Criminal Code also has its purpose that it will go to achieve, but rehabilitation is a significant purpose of the code among other purposes of the Code like deterrence.

As it is discussed in chapter two the behavior of an individual is determined by internal and external factors, which may lead, him into criminal activity. Some psychological factors like defective conscience, emotional immaturity, inadequate childhood socialization, maternal deprivation, etc may lead an individual into criminal activity. Some biological factors such as genetic abnormality, low IQ, abnormal level of sugar in the blood, etc, and some sociological factors like culture may also cause criminal behavior.

As history tells us even if different kinds of crime control mechanisms were applied, we are still confronted with the problem of crime. The degree of crime and the number of criminals dramatically increase. The previous mechanism has proved fruitless so we should have tried to solve this we need a shift of paradigm that is rehabilitation, which is at list a new paradigm that is proposed as a solution for the problem of crime for our prisons.

It is possible to reform the offender through the programs of rehabilitation such as health, religion, education, prison labor, counseling, and treatment programs- through which the offender rehabilitated and reintegrated into the society. Rehabilitation also minimizes the social cost of the country by increasing the productivity of an offender and by decreasing the destructive behavior of that individual. It has also a latent function like used as a source of labor. Rehabilitation also a better approach in a legal system in which the balance between the accused and the public prosecutor unbalance.

Parole and pardon are elements of rehabilitation through them rewarding offenders for their good behavior during their duration in the prison in which they are effectively rehabilitated.

When we come to FPK, the above all notions are not effectively implemented. The prison has no suitable conditions to implement rehabilitation and reap the fruit of it. The existence of the death penalty as a punishment is contrary to the very principle of the legal system itself that is rehabilitation the non-deterrence effect of the death penalty, the mistake committed during the execution process and its discriminatory nature minimizes the domination of death penalty in the legal system of any country. Especially the existence of the death penalty in a legal system that follows reformative justice like Ethiopia is wrong.

FPK is not also comfortable to implement rehabilitation, even if its upper cover is changed but its inside conditions the same as before. It is good for control and custody but not for rehabilitation. The reasons why our prisons weaken to implement the purpose of rehabilitation are the attitude of the public, the less concern of the government, and the prevalence of less eligible philosophy.

The structure of prison that is not initially prepared for rehabilitation but for control and custody, which are built without a plan, is overcrowded, small in size, no rehabilitation program and They have no scientific classification method. Some kinds of classification like sex classification are nominal which does not achieve the purpose of rehabilitation. Due to these, they might be a school of crime in which one inmate learns crime from the other

inmate. Some rehabilitation programs such as educational, recreational, religious, vocational, and aftercare programs are not effectively implemented to achieve their original purpose i.e. rehabilitation. Some important elements of rehabilitation parole and pardon are also do not conducted in our prison in their full sense. They are not effective at all. According to these, I propose the following recommendation:

1. Overcrowding is among many problems that the prison faced. Overcrowding leads to the deterioration of conditions and hinders rehabilitation programs. Therefore minimizing overcrowding is essential. As we can infer from the federal high court experience a large proportion of the prison population has been sentenced for minor offenses. So diversion must be injected into the criminal legal system, Diversion from the criminal justice process to appropriate treatment programs and alternative punishments. Therefore, it helps to minimize overcrowding of the prison.
2. Using prison for the control and custody of offenders could not help to control crime. The existing practice of prison should be changed and prepared them for rehabilitation programs their physical structure, their classification methods should be changed and make them large to conduct rehabilitation programs such as recreational facility and prison industry.
3. Rehabilitation programs like, vocational training has a significant effect on the offender so they should be conducted to rehabilitate the offenders and to contribute their part to the general economy of the country.
4. Education is an effective program of rehabilitation through which the behavior of inmates may change to rehabilitate inmates and to make them productive citizens of the country. The educational program of the prison should conduct effectively and upgraded up to the university level.
5. The religious activity should also - have to exercise in prison extensively and religious teachers like the pastor should be employed to reach them and develop their religious understandings which also rehabilitate the offender.
6. The economical capacity of inmates should be strong when they are in prison and follow up with them after release to make effective rehabilitation.
7. Pardon and parole should be conducted effectively and scientifically based on the study of the behavior of individuals and pardon should be periodical.

8. As the very purpose of rehabilitation is the reintegration of inmates into society as a functional citizen, the aftercare program is mandatory. Therefore, Aftercare programs must be started, the institutions that are in charge of the reintegration of inmates into the society must be built.
9. Legislation, which was enacted and will be enacted, should have to base on the very principle of the legal system i.e. reformative justice. Some articles of legislation, which allowed capital punishment, should avoid which has no any reformative purpose and need some revision.

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Interview

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- ❖ Interview with AsemeraAbedeta Director of Rehabilitation and Correction directorate of the federal prison administration. (Addis Ababa 11 May 2020)
- ❖ Interview with Abera Teresa coordinator officer of Rehabilitation and Correction directorate of FPK. (Addis Ababa 11 May 2020)
- ❖ Conversation with Colonel Solomon Alehege former superintendent of the prison. (Addis Ababa 2018)
- ❖ Interview with RahelEne Dale My client and inmates of FPK. (Addis Ababa 13 February 2020)
- ❖ Interviews with some inmates of FPK

Lists of questions prepared for evaluation of the efficiency of inmates rehabilitation activities carried out by the Kality correctional facility

Questions of the Assessment

A. Interview questions presented for administrative officials and assigned professionals of the correctional facility

1. What does the correctional facility intend to achieve by admitting and incarcerating convicted prisoners? What kind of persons are the prisoners expected to be upon completing their sentence terms?
2. What is the main purpose of the punishment administered by the correctional facility?
3. If the primary purpose of punishment is to rehabilitate an inmate, is the number of personnel and organizational structure of the correctional facility designed to achieve such a purpose?
4. What are the programs or activities introduced and being executed in the correctional facility to make the rehabilitation of inmates and improving their behaviors?
5. The correctional facility is considered to include a number of departments. Is there any department that leads and work towards the attainment of the rehabilitation activities?
6. What is the number of personnel that is directly involved in rehabilitation activities? Which fields of professions are such employees skilled with? What are their qualifications?
7. Are there sufficiently allocated budget and materials to assist the rehabilitation tasks? Do employees assigned for rehabilitation responsibilities undergo updated training sessions organized and delivered exclusively for this purpose?
8. Is there sufficient manpower and material availability required to carry out each of the programs implemented in the correctional facility? How many inmates take part in the correctional facility's rehabilitation programs?
9. Do assist inmates in organizing themselves into cooperatives and supplying products they produced into the market?
10. Scholars of the sector recommend the inclusion of religion. Economical and psychological programs in the rehabilitation plans. Are all these types programs available in the correctional facility and if so how effective are these programs?
11. Are there worship centers with worshiping leaders such as priests, sheiks, or pastors?
12. Does the correctional facility provide education for inmates and if so up to which level do teach the inmates? Can they attend higher education?

13. Are there vocational training centers? If so, are these centers competent enough, in terms of equipping inmates with skill and knowledge, to compete with similar centers outside the correctional facility?
14. Are the works you assigned to inmates categorized or just assigned randomly? If the works are assigned according to a certain category, how do you categorize the works?
15. Are juveniles, adults, and serious offenders as well as other prisoners assigned in the same cells? Do you have the practice of housing inmates according to the crime they have committed or other criteria?
16. Are the number of inmates and housing space proportional? How many inmates are put together in a single cell or room?
17. How do you know for sure if an inmate is rehabilitated? Do you have an evaluation or assessment mechanism for this purpose?
18. Do you assist inmates to secure economical benefits while being incarcerated? Are inmates released with the capacity and ability to support himself or his family economically?
19. Do you monitor the progress inmates once they are released from the correctional facility? Is there a system in place to track the status of an inmate after being released from the correctional facility?
20. The main purpose of rehabilitation is minimizing recidivism. In this regard since assessing the frequency of recidivism helps to evaluate the efficiency of your rehabilitation activities, is there a system through which you track prisoners that return to the correctional facility, and if so what is this method or system of tracking?
21. Parole and pardon that is granted to prisoners have significant contribution to rehabilitating inmates. In this regard do you have a system through which parole and pardon are granted to inmates based on a prior assessment?
22. In your opinion, do you think the rehabilitation works being implemented by the correctional facility are effective?
23. If you don't think the works are effective, what do you think the problems are for such inefficiency?

B. Questions forwarded to inmates who participated in individual and group discussion sessions

1. What is the crime you were sentenced to serve time in this correctional facility?
2. How long does your sentence last? How long have you been in the correctional facility?
3. What was the reason that compelled you to commit the crime you are convicted for?

4. Do you know what rehabilitation means?
5. Did the administration of the correctional facility oriented or informed you on what rehabilitation means? Did rehabilitation programs make you aware of what is harmful and what constructive?
6. Do you think you are imprisoned in the correctional facility or being rehabilitated?
7. In what kind of rehabilitation program of the correctional facility do you take part in?
8. How many of the inmates participate in the rehabilitation programs/ Are there who don't take part? Why?
9. What benefits did you gain from the programs? Did such a program give you to have a perspective towards crime and hope after you are released from the facility?
10. Is the prison room you are assigned to comfortable? What sort of things the room lacks? With what types of offenders are you placed in the same room? Do you mix with other offenders?
11. Do they give you religious services?
12. Do you guys work and if so, what sort of works do you perform?
13. Is a system that responds when you have anxiety or other problems?
14. Did you support your family before your imprisonment? What is the status of your family at the moment? Are you learning with an income-generating skill or knowledge that could help you support your family?
15. Whatever the correctional facility has, do think it would teach you to despise crime and make you a better person?
16. What kind of other punishment other than imprisonment would you think to teach you a lesson?
17. Do take classes? Up to what level of education did you reach? If you dropped from the school previously, did you continue your education here? Up to what level do they teach you? Do you have a library with enough books from all the relevant categories?
18. How do you evaluate the rehabilitation competency of the employees of the correctional facility to rehabilitate you?
19. In general, do think the correctional facility can produce a rehabilitated and productive citizen out of the inmates? Do think the correctional facility has the organizational structure and procedure that would transform your behavior you had when you first came here into affirmative behavior? If you do not think so, what do you think is the problem?

C. Places visited accompanied by a guide in the correctional facility

1. Ask and verify from the guide and the prison warden the size and types of prison cells (rooms) the number of prisoners in the rooms, services available, convenience for rehabilitation, age of prisoners, a criminal offense for incarceration.
2. Observing and verifying the rehabilitating programs being carried out in the correctional facility such as vocation training centers, entertainment facilities, worship facilities, working spaces; capacity of such facilities in terms of the number of inmates; whether the necessary support and assistance is provided to make the rehabilitating activities effective.
3. Visiting the library entrance doors and premises of the correctional facility.