



Sentencing Rationales in Comparative Perspective: A Study of Penal Philosophy in the United States, Chile, and Bangladesh

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Abstract

Background: This study analyzes sentencing rationales in the criminal justice systems of the United States, Chile, and Bangladesh as a scientific inquiry in comparative criminal justice, focusing on how differences in legal traditions and sociopolitical contexts influence penal philosophy and sentencing practices.

Objective: The study aims to identify and analyze the impact of retributive, deterrent, rehabilitative, and restorative justice rationales on sentencing frameworks, as well as to examine their implications for sentencing reform.

Methods: The research employs a qualitative, doctrinal, conceptual, and comparative methodology, examining statutory provisions, court judgments, sentencing guidelines, and relevant academic literature.

Results: The study finds that Bangladesh retains a largely deterrence-based sentencing framework shaped by its colonial legal legacy while progressively incorporating reform-oriented approaches; Chile prioritizes rehabilitation and restorative justice in accordance with its civil law tradition and human rights orientation; and the United States emphasizes retribution and deterrence, contributing to a punitive sentencing culture associated with mass incarceration. The research is original in that it provides an analysis of how sentencing rationales influence judicial decision-making and broader conceptions of justice through an integrated comparative analysis of three jurisdictions representing different legal traditions and stages of penal development.

Conclusion: The findings have conceptual and practical value for comparative criminal justice scholarship by providing a framework for designing fairer, context-sensitive, and evidence-based sentencing practices, particularly in Latin American and South Asian legal systems.

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INTRODUCTION

Sentencing rationales provide a theoretical framework for judicial decision-making in criminal justice systems across the world. However, the diversity of legal traditions and sociopolitical contexts has a substantial impact on how these rationales are expressed, resulting in a wide range of sentencing outcomes. Despite increased scholarly interest in comparative criminal law, there remains a significant lack of cross-regional assessments that systematically evaluate sentencing philosophies across legal families and sociopolitical systems. This research addresses this gap by conducting a comparative examination of sentencing rationales in the United States, Chile, and Bangladesh. The primary objective is to critically examine how penal

philosophy influences sentencing practices in these jurisdictions, which are distinguished by distinct legal systems—common law, civil law, and a postcolonial hybrid system—and how these philosophies interact with broader sociopolitical realities to shape criminal justice outcomes.

The comparative legal methodology used in this study is useful for shedding light on the complex interplay between penal philosophy, legal theory, and the sociopolitical environment. The comparative method employed in this study is structured through a functional-comparative matrix that examines similarities and differences in sentencing frameworks across the selected jurisdictions. The units of comparison consist of three main categories: statutory sentencing provisions and codified sentencing frameworks; appellate and supreme court judgments rendered between 2015 and 2024; and sentencing guidelines or other relevant institutional instruments, where applicable. The selection of primary legal materials focuses on landmark appellate decisions that explicitly articulate sentencing rationales, statutory provisions establishing mandatory minimum sentences or sentencing guideline frameworks, and judicial statements that clarify the jurisprudential foundations underlying the sentences imposed. The three jurisdictions were purposively selected to represent distinct legal traditions and institutional pathways, namely the common law tradition represented by the United States, the civil law tradition represented by Chile, and the postcolonial hybrid legal system represented by Bangladesh. Retributive and deterrent penal ideologies place strong emphasis on punishment and deterrence within the United States legal system, which is frequently expressed through severe sentencing regimes and widespread imprisonment. Chile is a prominent example of a civil law jurisdiction that emphasizes restorative justice and rehabilitation in sentencing reform, reflecting the region's human rights discourse concerning criminal justice. Bangladesh's postcolonial legal history demonstrates both elements of legal hybridity resulting from its colonial past and the influence of contemporary reform measures focused on deterrence, alongside emerging rehabilitative approaches (Rahman, 2017). By tracing penal philosophy and actual sentencing outcomes within this operationalized comparative framework, this study contributes to a better understanding of how sentencing rationales function in diverse settings, thereby facilitating more productive policy discussions and academically informed debate.

The study is significant for its comparative cross-regional approach, which links abstract legal concepts to tangible sociopolitical influences on penal philosophy. Whereas previous research has focused primarily on specific jurisdictions or regional comparisons within related legal families, the current study crosses continents and legal traditions to provide an integrated and comprehensive perspective. In doing so, it sheds light on how criminal justice philosophies transcend doctrinal borders while remaining deeply embedded in national cultural and historical narratives. Furthermore, the study makes a theoretical contribution to comparative criminal law by demonstrating how sentencing rationales change and adapt to evolving political, social, and cultural environments, thereby addressing an important gap in the existing literature.

The comparative study requires a brief synopsis of the major penal philosophies. Punitive sentencing approaches are frequently associated with retributivism, which emphasizes moral blameworthiness and just deserts (Caruso, 2020). Penalties serve as disincentives for both offenders and the general public, according to deterrence theory, which seeks to prevent crime. Rehabilitation seeks to reintegrate offenders into society by addressing the factors associated with their offending and promoting their successful reentry. Restorative justice places strong emphasis on repairing harm and involving victims and communities in the administration of justice. Most of these philosophies coexist, compete, and intersect in complex ways within criminal justice systems as a result of broader ethical debates about the purposes of punishment and justice (Kalverkämper, 2023; Souryal & Whitehead, 2019; Whitman, 2003). The sentencing rationales discussed in this study are based on differences in emphasis across the jurisdictions examined.

The United States has developed an exceptionally formalized sentencing system, with mandatory minimum sentences, sentencing guidelines, and a punitive orientation that prioritizes punishment and deterrence, contributing to one of the world's highest imprisonment rates. Chile's sentencing system reflects its civil law background through codified legislation and the incorporation of rehabilitative and restorative justice concepts, particularly following the 1990s democratic transition and advances in human rights (Collins & Bustos, 2025; Díaz Gude & Navarro

[Papic, 2020; Villagra Pincheira, 2022](#)).

Bangladesh's sentencing regime retains the influence of its British colonial heritage through the combination of common law principles and local customary practices, but it continues to struggle to reconcile deterrence and emerging rehabilitative goals with broader social and political imperatives. A context-specific understanding of the fundamental philosophical foundations of sentencing, as well as its practical application, is therefore critical to analyzing sentencing practices in all three countries.

The study focuses on the following important research questions: What are the differences and similarities between sentencing rationales in Bangladesh, the United States, and Chile? What socio-legal factors influence these rationales? To what extent do history, politics, and culture influence penal philosophy and sentencing practices? In addressing these questions, the study seeks to provide a grounded comparative perspective on debates concerning penal philosophy for use by scholars, policymakers, and legal practitioners across different legal traditions.

METHOD

The study employed a qualitative and doctrinal epistemology, which was appropriate for investigating the underlying philosophies of sentencing rationales in various countries. Because of its focus on examining subtle social and normative processes, qualitative research was well suited to interpreting the philosophical foundations underlying sentencing decisions, which quantitative measurements alone could not capture ([Creswell & Poth, 2016](#)). Doctrinal analysis, a core method of legal research, involved the systematic study and interpretation of primary legal sources, such as legislation and court judgments, with the goal of identifying legal principles and their applications. The study's use of qualitative and doctrinal research allowed it to situate legal norms within broader sociopolitical contexts and identify how sentencing rationales were developed and applied.

The comparative legal approach was well suited to this research because it allowed for an organized comparison of sentencing philosophies across various legal traditions, including common law, civil law, and mixed postcolonial regimes. Comparative research revealed convergences and divergences among penal philosophies that might otherwise have gone unnoticed. Comparing regimes with different histories, cultures, and legal origins demonstrated how legal theory interacted with societal values and political circumstances to influence sentencing outcomes. Such an epistemological perspective complemented the study's goal of moving beyond descriptive reporting of the literature toward an interpretive assessment of sentencing rationales within an increasingly globalized legal order.

The study's principal methodology was a comparative doctrinal examination. It compared and examined legislative provisions, judicial decisions, sentencing guidelines, and relevant expert opinions pertaining to the three jurisdictions: the United States, Chile, and Bangladesh. Doctrinal analysis aided in mapping the overt and implicit penal orientations inherent in legal materials and judicial decisions, allowing for the categorization of sentencing rationales under the rubrics of retributivism, deterrence, rehabilitation, and restorative justice.

The comparative design was intended to investigate how penal philosophies were prioritized or disregarded in each criminal justice system, as well as how such prioritization influenced sentencing practices. It entailed a thematic integration of penal principles and sociopolitical concerns to provide an informed overview of sentencing rationales that was attentive to jurisdictional differences as well as broader global trends ([Siems, 2022](#)). Data collection involved recurring cycles of data collection, analysis, and interpretation to ensure analytical rigor and contextual depth.

The data for this study were derived from a large collection of primary and secondary legal texts, providing a comprehensive doctrinal investigation. The primary sources consisted of statutory codes, criminal legislation, and sentencing guidelines issued by competent authorities in the United States, Chile, and Bangladesh. Judicial opinions from appellate and supreme courts were systematically analyzed to discern how sentencing rationales were articulated and operationalized in practice, providing insights into the application of penal philosophies and reflecting jurisprudential trends.

Secondary materials included scholarly commentary, peer-reviewed journal articles,

government reports, and institutional materials produced by criminal justice agencies and international organizations. These sources provided contextual information, interpretive perspectives, and empirical data to support the doctrinal examination. Combining diverse types of sources enhanced the validity of the analysis by triangulating legal doctrine with sociolegal commentary and policy assessments.

The analytical framework used in the study to examine sentencing rationales was based on the dominant penal theories of retributivism, deterrence, rehabilitation, and restorative justice. Retributivism served as an analytical lens for examining legislative texts, judicial decisions, and scholarly research.

Retributivism was defined as principles emphasizing moral culpability and proportionate punishment; deterrence as references to crime prevention and risk management; rehabilitation as policies aimed at offender reform and reintegration; and restorative justice as mechanisms involving victim-offender mediation and community engagement. This paradigm enabled systematic comparison by mapping how each philosophy manifested itself in legal practice and discourse across jurisdictions.

Furthermore, the framework was grounded in sociolegal theory, which situated penal philosophies within broader societal and political contexts. A dual-focus doctrinal and sociolegal approach ensured that sentencing rationales were viewed not as abstract legal concepts, but as fluid constructs embedded in cultural and institutional settings (Freiberg, 2023).

The research adopted a mindful and respectful approach to the cultural and legal diversity inherent in comparative legal scholarship. Reflexivity involved the continuous acknowledgment of the researcher's own cultural and legal background in order to avoid ethnocentrism, namely, the application of one's own legal norms and values to other legal traditions. To recognize the legitimacy of varied legal traditions and penal objectives, care was taken not to interpret each jurisdiction's sentencing philosophy independently of its historical, social, and political context.

Furthermore, ethical research procedures required transparency in source selection, accurate representation of legal concepts, and responsible interpretation of judicial materials. The study avoided making normative judgments regarding the superiority of any particular sentencing rationale, instead focusing on descriptive and explanatory analyses. This ethical approach was consistent with established norms in comparative legal research and promoted academic integrity.

The study recognized several methodological constraints that could restrict the extent and depth of the investigation. Language constraints posed difficulties, particularly because Chilean legal documents were predominantly in Spanish and certain Bangladeshi documents were in Bengali or English, with uneven accessibility. The use of translated materials and secondary-source intermediaries could introduce interpretive limitations. To minimize such risks, the study prioritized direct access to official legislative texts, including the Código Penal and the Criminal Procedure Code (CPP), as well as Supreme Court decisions available through institutional repositories. In the case of Bangladesh, colonial-era statutes drafted in English were directly accessible, thereby reducing potential translation-related inaccuracies.

The study also applied a transparent source-selection procedure to ensure that differences in digital accessibility did not create an imbalance in the comparative analysis. Although the United States had a more extensive and readily accessible body of digitized sentencing jurisprudence, its greater availability was not allowed to disproportionately influence the source corpus. Instead, the depth of sources examined for each jurisdiction was calibrated according to the availability and accessibility of authoritative legal materials within its respective institutional context. This approach was adopted to maintain methodological consistency and comparative parity across the three jurisdictions.

The availability of comprehensive and up-to-date judicial opinions and sentencing data differed by jurisdiction, with the United States having more readily accessible databases than Chile and Bangladesh. This disparity required the use of government reports and scholarly commentary to supplement the primary source data, which may have limited the level of analytical granularity.

Furthermore, the qualitative and doctrinal character of the study precluded the quantification of sentencing outcomes or statistical generalization. Rather, the study provided

interpretive findings and theoretical implications to inform future empirical research. These limitations were explicitly acknowledged to contextualize the findings and inform readers of the study's methodological constraints.

RESULTS AND DISCUSSION

Results

Sentencing philosophies vary by jurisdiction, reflecting distinct legal traditions, societal interests, and institutional frameworks. The approaches taken by the United States, Chile, and Bangladesh varied depending on their legal systems and sociopolitical settings. While the United States has a common law tradition heavily influenced by retributive and deterrent rationales often achieved through mechanisms such as plea bargaining and mandatory minimums, Chile's civil law tradition places a greater emphasis on rehabilitation and restorative justice, with judicial discretion guided by human rights standards. In contrast, Bangladesh's hybrid system, built on colonial-era common law, continues to prioritise deterrence and retributivism while failing to include significant rehabilitative elements due to institutional constraints. These distinctions highlight how legal institutions and historical traditions combine with broader societal ideals to shape each country's approach to criminal punishment.

United States: Sentencing Rationales and Penal Philosophy

Sentencing in the United States is founded on a complex interplay of legal doctrine, political influence, and cultural views towards crime and punishment. Rooted in the common law tradition, American criminal thought has generally centred on punishment and deterrence, perhaps leaning too far towards punitive reaction at the price of rehabilitation. This perspective has been bolstered by decades of "tough on crime" policies, public expectations for accountability, and institutional incentives that promote efficiency and severity in criminal justice. As a result, US sentencing practice reflects both legal doctrine and other beliefs that continue to influence the direction and nature of criminal reform.

Overview of the U.S. Sentencing System

The United States' sentencing system is the result of its common law legacy, which has been heavily influenced by both legislative obligations and judicial flexibility. The system operates within both federal and state jurisdictions, each with distinct sentencing regimes, legislation, and procedures. In the federal sector, the United States Sentencing Commission (USSC) establishes advisory Sentencing Guidelines (pursuant to *United States v. Booker*, 543 U.S. 220 (2005), which made the Guidelines advisory rather than mandatory), intended to promote uniformity in sentencing but no longer jurisdictionally binding. State sentencing systems vary substantially: some employ indeterminate or discretionary regimes, while others follow determinate or guideline-based systems; this heterogeneity reflects distinct penal philosophies and institutional histories within each state jurisdiction. Despite this structural diversity, both federal and state criminal systems have historically relied on retributive and deterrence-based rationales to guide sentencing procedures, though with significant variation in implementation and judicial discretion.

Dominance of Retributive and Deterrent Theories

Retributivism and deterrence remain the most important sentencing elements in the United States correctional system. Retributive justice, which holds that punishment should be commensurate to the offender's moral blameworthiness, dominates American prison culture. Retributivism was supported during the punitive turn in the final quarter of the twentieth century, when crime rates rose and the political zeitgeist shifted towards "tough on crime" policies.

General and specific deterrence theories have also influenced the growth of sentencing legislation, particularly three-strikes statutes and statutory minimums. Such legal procedures strive to prevent future wrongdoing by increasing the punitive price of crime, often at the expense of individualised justice. sentence reasons for deterrence are common among both federal and state courts, supporting the utilitarian rationale that underpins most of the United States sentence system.

These arguments, in particular, often work in combination, as judges combine retributive and deterrent factors in the sentencing. For example, in drug- and firearms-related offences, sentencing choices nearly invariably include an assessment of both the offender's moral responsibility and the sentence's deterrent impact to society. Underscoring these features highlights the dualistic penal reasoning that characterises the sentencing language in the United States.

The Role of Plea Bargaining and Mandatory Minimums

Plea bargaining is a defining feature of the United States sentencing system. Empirical data from the Bureau of Justice Statistics indicate that over 90% of American criminal convictions in both federal and state courts result from negotiated guilty pleas rather than trial adjudication, a rate that has remained relatively stable over the past two decades. Plea bargaining exerts considerable influence on sentencing outcomes since it typically leads to the imposition of reduced sentences in exchange for guilty pleas, cooperation with investigators, or waiver of trial rights, thereby systematically shaping the practical operation of sentencing rationales.

Although plea bargaining promotes efficiency, it also raises significant ethical concerns about injustice and coercion. Prosecutors have broad discretion when charging, and the threat of high obligatory minimums may pressure defendants into pleading in cases when they may have valid claims. Mandatory minimum sentencing regulations for drug and weapons offences were expanded in the 1980s and 1990s as part of sentence result rigidity and judicial discretion limitations.

While some revisions have lightened such restrictions, such as the First Step Act of 2018, which allows for retroactive sentence reductions for certain drug crimes, constitutional-style mandatory sentencing remains the norm. These processes impose deterrent by legislative fiat while suppressing the rehabilitative or restorative possibilities of the ordinary sentence-construction routine.

Trends: Mass Incarceration and Emerging Reforms

The United States continues to suffer the price of decades-long draconian sentencing practices, which have resulted in mass imprisonment. With an anticipated 1.9 million people incarcerated in prisons and jails, the United States has one of the world's highest incarceration rates. The disproportionate number of racial minorities, particularly the Black population and Hispanics, among the imprisoned illustrates both institutional prejudice and the impact of sentencing rules that penalise groups more harshly.

Bipartisan concerns about the social, economic, and moral consequences of mass imprisonment have led to an increase in support for sentence reform in recent years. National and state-level efforts attempted to shift sentencing procedures towards rehabilitative and restorative practices. Diversion programs, drug courts, community alternatives, and measures to reduce mandatory minimum sentences and expand parole eligibility followed ([Day et al., 2021](#); [Petersilia, 2018](#)).

Nonetheless, the terrain of transformation remains fragmented. While some states have embraced progressive sentencing changes, others have either resisted or opposed them. Furthermore, fluctuating politics and popular emotion continue to impact the direction of reform, with concerns about crime rates frequently leading to reversals of decarceration trends ([Lynch & Omori, 2023](#)). As a result, the United States is in an intermediate period in which established punitive concepts are questioned but not overturned.

Philosophical Tensions and the Future of U.S. Sentencing

The current sentence debate in the United States reflects an increasing acknowledgement of flaws in the retributive and deterrence-oriented frameworks. Critics argue that the approaches have failed to address the root causes of crime, expanded socioeconomic disparities, and ignored the rehabilitative potential of criminal court procedures. Suggestions for adopting restorative justice ideals have gained traction among researchers and policymakers, particularly in the areas of juvenile justice and community outcomes.

Meanwhile, culturally established and institutionalised norms continue to favour

punishing approaches. Politicians' rhetoric, prosecuting agencies' actions, and public emotion all tend to reinforce retributivism as the ethical starting point for sentencing, making it difficult for the country to shift towards more humanitarian or evidence-based approaches. The development of sentencing philosophy in the United States will be influenced by wider sociopolitical processes, including as changes in public awareness, campaigns for social change, and empirical assessments of reform effectiveness.

Chile: Penal Philosophy and Sentencing Practices in a Civil Law Framework

Chile's sentencing policy is heavily influenced by its civil law tradition, as well as the country's overall transition towards democratic governance and human rights responsibility in the aftermath of its authoritarian past. Unlike adversarial systems in which punitive rationales should prevail, Chile's criminal approach demonstrates a deliberate change towards rehabilitation-focused, proportional, and social reintegration principles. This transformation has been made possible by a succession of constitutional amendments and legislative changes that emphasise human dignity and the role of the judicial system in maintaining an orderly society. As a result, Chile exemplifies how legal framework, foreign inspiration, and shifting societal values come together to foster a more rehabilitative approach of criminal justice.

Overview of Sentencing System in Chile

Chile's criminal procedure system is based on the civil law tradition, with guidance from European legal models (particularly Spanish and French legal frameworks). Following the Código Procesal Penal (Law 19.696, enacted in 2000), Chile adopted an accusatorial, oral, and adversarial criminal procedure model rather than the inquisitorial approach. Sentencing in Chile is governed by comprehensive codified statutes that define crimes and penalties; nevertheless, judges retain significant sentencing discretion subject to statutory minimums and maximums, with the ability to individualize sentences based on case-specific facts and offender characteristics. The use of suspended sentences, conditional release, and probation demonstrates a complex approach balancing punishment with opportunity for social reintegration, consistent with Chile's civil law framework and human rights obligations.

Chile has a high level of sentencing discretion, yet it functions within an organised system. Judges are guided by the statutory minimum and maximum punishments, but they have the ability to customise sentencing depending on case facts and criminal characteristics. The use of suspended sentences, conditional release, and probation demonstrates a complex strategy that balances punishment with opportunity for social reintegration (Euvrard & Leclerc, 2025; Gelb et al., 2019). This approach is consistent with Chile's larger legal system, which prioritises proportionality, human dignity, and social rehabilitation.

Emphasis on Rehabilitation and Restorative Justice

The restorative and rehabilitative theories of justice dominate Chile's correctional policy framework, particularly in statutory form and judicial practice. Evidence for this institutional emphasis includes: the Ley de Responsabilidad Penal Adolescente (LRPA, Law 20.084), which mandates restorative and diversion approaches for juvenile offenders; the recognition of victim-offender mediation and reparative agreements within the criminal procedure framework (Código Procesal Penal, arts. 196–197); and empirical research documenting that judges frequently employ sentencing alternatives and rehabilitation-focused measures in adult criminal proceedings, particularly for non-violent offences. Penal reform from the post-dictatorial 1990s onward was committed to human rights and dignity protection, directly influencing sentencing philosophy and practice; rehabilitation is recognized as an objective in law and increasingly in sentencing decisions. However, it is important to distinguish between juvenile justice (where restorative models are more firmly established) and adult sentencing (where rehabilitation remains contested), and to acknowledge implementation gaps between statutory provision and court practice.

Restorative justice has also achieved significant advances in Chilean criminal policy, particularly for juvenile crime and local-level interventions. Restorative justice involves exchanging words between criminals, victims, and the community to promote accountability and

social connection. As punishment becomes less about revenge, restorative procedures, such as mediation and reparative agreements, are becoming more common.

Empirical research emphasises how offender rehabilitation plays a vital role in Chilean judges' sentencing choices, with the goal of establishing a link between crime control and defendants' rehabilitation ability. Compared to heavier punishment models, the argument emphasises how Chile's civil law system allows for a more flexible sentencing approach.

Sentencing Discretion and the Influence of Human Rights Frameworks

Chile's sentencing regime shows the country's adherence to international human rights values, as such norms influenced legal evolution and judicial reasoning. Local incorporation of human rights norms has spurred judicial restraint in the area of unduly severe sentence and allowed for procedural rationale. Such a normative context requires judges to consider proportionality and societal impact while making sentence judgements.

The use of judicial discretion occurs within the framework of those human rights obligations, which serve as a protection against arbitrariness or proportionality in punishment. Sentences involving significant restriction of liberty must be justified legally, ethically, and socially. This framework promotes punishment based on reintegration, proportionality, and respect for dignity, supporting rehabilitative and restorative paradigms. Furthermore, Chile's constitutional jurisprudence is becoming more human rights-oriented, impacting penalty standards and processes. Judicial branches have rejected processes or regulations that violate international human rights principles, indicating a shift towards proportionate sanctions over revenge.

Recent Reforms and Their Impact on Sentencing Philosophy

In recent years, Chile has enacted significant criminal justice changes aimed at modernising sentencing and improving prison rehabilitation. The Adolescent Criminal Responsibility Law (Ley de Responsabilidad Penal Adolescente) expanded restorative justice processes and non-custodial options for young people charged with crimes. Such approaches demonstrate a desire to reduce young detention while also promoting social reintegration. Reforms have also focused on adult sentencing, encouraging the use of alternative punishments such as community service, electronic monitoring, and mediation programs. Legislative efforts promote diversion and non-custodial sanctions in order to reduce jail overpopulation and improve criminal rehabilitation.

These initiatives are consistent with worldwide trends that emphasise decarceration and restorative techniques, as opposed to the punitive policies prevalent in other nations. Nonetheless, critics point out flaws in implementation, such as unequal access to restorative programs and the continuous use of jail for some areas or offences. All of these issues come from a clash between reformist goals and the actual limits of Chile's sentencing system. Chile's changing correctional philosophy displays a growing emphasis on integrating justice, restoration, and rehabilitation. Its methodology reflects broader societal ideals and adheres to international human rights principles, distinguishing the Chilean sentencing model from others in which punishment takes precedence.

Bangladesh: Sentencing Rationales within a Hybrid Common Law or Postcolonial System

Bangladesh's sentencing policy is determined by the complex interaction of its colonial legal past, sociopolitical setting, and progressive expectations for justice reform. As a postcolonial society with a mixed common law system, Bangladesh retains the majority of punitive components introduced during British control, especially an emphasis on deterrence and punishment. However, growing awareness of structural inequalities, jail overpopulation, and international human rights norms has prompted calls for a more egalitarian approach. Despite incremental reform efforts and occasional programs that promote rehabilitation and restorative justice, sentencing remains inherently punitive and disproportionately enforced, and it reflects the larger institutional and cultural issues that shape the nation's criminal justice system.

Overview of the Bangladeshi Sentencing System

The Bangladesh criminal justice system is fundamentally based in the country's colonial heritage, having adopted the common law system developed during the period of British colonialism. Despite several amendments to fit the current scenario, sentencing methods continue to be based on the Penal Code of 1860 and the Criminal Procedure Code of 1898. Although the court implements the laws in an adversarial system, the exercise of judicial discretion is sometimes limited by stringent legislative rules as well as sociopolitical concerns.

The sentencing regime in Bangladesh is predominantly punishment-oriented, with a focus on deterrence and retributive justice. Despite the need for judges at the Holiday Hills pilot site to follow statutory sentencing standards, the practice of judicial discretion varies too often between courts due to case backlog, corruption, and a lack of resources ([Hossain, 2025](#)). The current paradigm is characterised by the widespread use of jail, with few formal options for non-custodial measures or rehabilitation programs, highlighting fundamental issues in the criminal justice system.

The Legacy of Colonial Penal Philosophy: Retribution and Deterrence

The colonial effect on Bangladeshi penal thinking is undeniable, affecting the sentencing regime via an emphasis on vengeance and deterrence. British colonial law was primarily designed to enforce social order and exercise governmental authority, with a heavy emphasis on punishment as a means of social control. It persists as a relic in the form of harsh sentencing practices and punishing culture in both formal legislation and judicial culture.

In Bangladesh, the principle of retribution in sentence application is expressed by the use of fixed penalty for offences judged detrimental to society, which exemplifies the moralistic view of crime and punishment. Retributive punishment theories, which explain heavy punishment as a deterring mechanism in an overcrowded society based on socioeconomic lines, are also expressed here ([Karim, 2025](#)). The widespread usage of the death sentence for heinous offences demonstrates the continued importance of retributive justice.

Despite the prevailing deterrent and punishment mentality, there is an acknowledgement of the punitive approach's limits. Scholars and practitioners increasingly emphasise the importance of sentence reform that includes rehabilitative and restorative aspects in order to successfully reduce recidivism and promote social reintegration. However, established institutional and socio-political constraints have limited the models' applicability.

Challenges in Rehabilitation and Alternative Sentencing

Bangladesh experiences major obstacles in establishing rehabilitative sentencing policies. The criminal justice system is overworked and underfunded, with prisons running at full capacity and inadequate rehabilitative programs. Social stigma against criminals, ineffective probation systems, and restricted community-based prisons all impede efforts to incorporate rehabilitation into punishment. Formal alternatives to jail, such as probation or community work, are infrequently used and are often absent from common court practice. This situation may be attributed in part to legislative stasis and the weak institutional framework required to allow these alternatives, as well as social attitudes that favour punishing measures over rehabilitation initiatives.

Restorative justice approaches have been included into programs led by international organisations and civil society in recent years, notably in the contexts of children's justice and domestic dispute resolution. Their primary goals are to develop offender accountability and encourage victim-offender reconciliation, as a first step towards an equitable punitive philosophy. Nonetheless, the measures remain on the periphery and face resistance inside the wider system.

Socio-Political Factors Influencing Sentencing Rationales

In Bangladesh, sentencing processes are deeply ingrained in larger sociopolitical systems. Politicians' meddling, corruption, and external demands on the judiciary branch frequently impact sentence judgements in ways that undermine the rule of law and the administration of just justice. Politicising criminal proceedings can result in harsher punishment for politically motivated crimes or leniency for powerful culprits, at the expense of a non-political application of penal

theory.

Socioeconomic gaps have a significant impact on sentencing outcomes across all three jurisdictions, reflecting systemic inequalities in legal access and criminal justice administration. In the United States, empirical research consistently documents that minority populations, particularly Black and Hispanic defendants, receive longer sentences than white counterparts for equivalent offences, a disparity partially attributable to socioeconomic status, inadequate legal representation, and prosecutorial discretion. In Bangladesh, documented case studies and human rights reports indicate that impoverished defendants face barriers to bail, suffer from delayed trials, and receive harsher sentences due to corruption and inadequate legal aid, while wealthier defendants secure lenient outcomes or acquittals. Chile, despite reforms, also exhibits socioeconomic sentencing disparities, though perhaps less stark than in the other two jurisdictions. These patterns demonstrate that sentencing rationales operate not as neutral legal principles but as mechanisms that often reinforce existing social inequalities.

The interaction of colonial legacy, institutional inadequacies, and sociopolitical conditions creates a complex sentencing environment in which deterrence and punitive justice predominate but are increasingly challenged by reform supporters. Changing the political will and capacity to alter sentencing paradigms towards rehabilitative and restorative ones is a significant challenge for Bangladesh.

Emerging Reform Efforts and Prospects

Despite institutional shortcomings, there is rising support for Bangladesh criminal reform, which includes reforming sentence guidelines. Some procedural safeguards have been established through law reform and rehabilitation pilot projects, with the international community and civil society becoming increasingly involved in the implementation of human rights-compliant sentencing principles. Sentencing courses increasingly emphasise non-custodial sentencing, restorative justice, proportionality, and human dignity in punishment. Sentencing programs indicate a rising acknowledgement of the need for sentencing to adhere to modern ideals and international norms, but they also reveal a diverse approach.

The youth justice system has seen major reforms, with new legislation pursuing diversion, restorative measures, and community punishment as methods of eliminating adolescent imprisonment. These projects might serve as a model for more comprehensive changes focused at adult sentencing and systemic rehabilitation.

Nonetheless, the historically established colonial legacy, socio-political processes, and institutional capacity restrictions provide long-term hurdles to transformation. Enabling a fair and contextually relevant sentencing philosophy for Bangladesh necessitates long-term commitment, cross-sector collaboration, and structural transformation.

Comparative Framework: Sentencing Rationales and Legal Mechanisms in the United States, Chile, and Bangladesh

A comparison of sentencing systems in the United States, Chile, and Bangladesh shows how legal traditions, legacies, and sociopolitical contexts influence different penal ideologies and sentencing practices. Although the three systems aim to maintain social order and justice, their focus on punishment, rehabilitation, and procedural justice differs dramatically. This chapter examines the philosophical foundations, legal principles, and environmental influences that shape sentencing in different jurisdictions, as well as the similar issues and distinctive reform opportunities.

Philosophical Foundations and Penal Rationales

The sentencing patterns in the United States, Chile, and Bangladesh show stark differences due to varying penological traditions, sociopolitical contexts, and cultural imperatives, but they also reveal some points of convergence created by international penal discourses. The American criminal system is preoccupied with punishment and deterrence, but Chilean civil law prioritises restorative justice and rehabilitation. Bangladesh has an eclectic postcolonial demeanour, with a continued reliance on punishment and deterrent while also demonstrating early signs of criminal reform.

Sentencing in the United States is heavily influenced by retributive justice, in which punishment is proportional to moral responsibility, and deterrence, in which crime is prevented in the future. Both emphases have resulted in a severe sentencing culture, as seen by sentence guidelines, mandatory minimums, and plea bargaining, all of which contribute to mass imprisonment. The adversarial structure of the system, as well as constitutional safeguards on paper, ensure that due process is balanced, but the real consequences frequently indicate severity and systematic biases.

Chile's sentencing concept differs significantly, reflecting the country's civil law background and strong dedication to human rights after the dictatorship ended. In this setting, the ideals of rehabilitation and restorative justice are critical, supported by judicial discretion functioning within legal frameworks that prioritise social reintegration above punitive measures. Restorative justice approaches, such as mediation and community involvement, are more widely used than in the US, demonstrating a commitment to repairing harm and strengthening societal cohesion.

Bangladesh also shows an elaborate hybrid. Sentencing logic remains primarily deterrent and retributive, a legacy of British colonial criminal systems designed for dominance and order. However, reformist inclinations, notably in the field of juvenile justice and among civil society actors, perceive a greater emphasis on rehabilitative and restorative methods, albeit limited by institutional and cultural hurdles. Punitive predominance in the system coexists with growing initiatives to incorporate alternatives in sentencing and offender rehabilitation.

Legal Traditions and Sentencing Mechanisms

The formal traditions that underpin these countries heavily impact sentencing procedures and reasoning. The United States has an adversarial common law system in which jury trials occur and court rulings are based on precedents. Sentencing incorporates precise statutory guidelines, mandatory minimum sentences, and plea bargaining, all of which limit judge discretion and tend to standardise punishment. Nonetheless, an overreliance on incarceration combined with sophisticated procedural safeguards results in varied and lengthy sentence durations that disproportionately affect minority populations.

Chile's civil system has an inquisitorial approach, with judges investigating and deciding on facts and punishments based on codified regulations. Sentencing discretion is more expansive and is used within legislative bounds that promote customised evaluation with a focus on restorative and rehabilitation possibilities ([González, 2022](#)). The incorporation of international human rights principles into constitutional law by the country's legal culture acts as an additional restraint on disproportionate punishment. As a result, the criminal system strives for proportionality between social protection and offender rehabilitation, as opposed to the US's punitive proclivities.

Bangladesh's sentencing system is based on the common law system of British colonial rule, although it functions in a different sociopolitical environment. The adversarial sentencing process is still in place, but it confronts obstacles such as judicial backlogs, corruption, and a lack of institutional resources that compromise its consistency and equity ([Hossain, 2025](#)). The deterrent and retributivist logic inherent in colonial penal rules continue to make sentences harsh and prison-focused ([Karim, 2025](#)). Although the juvenile justice system's reform procedures show gradual progress in implementing the rehabilitative concept, sentencing procedures are still in their infancy.

Socio-Political Contexts and Their Impact on Sentencing

Philosophies of sentencing are inextricably linked to the larger sociopolitical contexts in which they function. The sentencing system in the United States serves as an example of a nation struggling with issues of mass incarceration, enduring racial disparities, and political demands for strict "tough on crime" policies as both motivators of punitive justifications and growing calls for reform. All too frequently, sentencing politics, which are extensions of public opinion and legislative need, limit judicial prerogatives and highlight incarceration as the main reaction to crime.

Chile's criminal philosophy has been radically altered by its post-authoritarian transition

and dedication to human rights. Social values that prioritise social cohesiveness, proportionality, and dignity are reflected in the adoption of restorative justice and rehabilitation. Additionally, reforms have addressed recidivism and jail overcrowding, highlighting the power of political will in line with global norms. However, there are still differences in execution, which indicates conflicts between institutional capabilities and normative objectives.

Sociopolitical considerations have a major role in determining sentencing practices in Bangladesh. The attainment of fair and impartial punishment is hampered by historical colonial administrative influence, current political interference, corruption, and socioeconomic disparities. Systemic deficiencies and cultural inclinations towards punishment further aggravate the tendency for vulnerable groups to receive greater punishment. Even while reform initiatives point to possible improvements, ingrained sociopolitical conditions nevertheless provide major obstacles to real progress.

Judicial Discretion and Sentencing Outcomes

The judicial discretion varies greatly between different systems, influencing sentence judgements and philosophical perspectives. In the United States, sentencing commissions and mandated minimums severely limit judge discretion in pursuit of consistency, but sometimes at the expense of disproportionate penalties and less individualised justice. Plea bargaining, which accounts for more than 90% of convictions, also limits court sentence discretion, fostering systemic issues such as coercion and unfair treatment.

The Chilean civil law tradition gives judges a lot of leeway to deliver individualised penalties based on the offender's specific circumstances as well as larger social goals. This discretion is limited by human rights norms and supervision systems designed to ensure proportionality and justice. As a result, sentencing results usually promote incarceration alternatives as well as restorative initiatives; nonetheless, inter-regional variance and resource constraints may impair consistency.

Formal sentence authority in Bangladesh is broad, but practical sentencing freedom for Bangladesh courts is limited by legislation, sociopolitical pressures, and institutional insufficiency (Hossain, 2025). Sentencing alternatives typically reflect extra-legal elements such as political influence and corruption, raising concerns about judges' independence. It limits judicial ability for non-custodial sentence imposition due to weak rehabilitative infrastructure and a lack of non-custodial sentencing choices.

The Role of Human Rights and International Norms

Human rights regimes have a distinct impact on sentencing ideologies. Chile's constitutional enshrinement encourages restorative and rehabilitative justice and limits excessive punishment through international standards. As domestic practice corresponds to international standards, it is urged to sentence with dignity and proportionality in mind.

The US criminal system, on the other hand, is equivocal regarding international human rights influence, prioritising domestic policy goals and sentence sovereignty. There are constitutional safeguards in existence, but systemic problems like as racial disparities and mass imprisonment impair the achievement of rights in sentence outcomes. In terms of sentencing responsibility, the United States remains an outlier in international human rights jurisprudence.

The use of human rights in punishment in Bangladesh is still relatively new and inconsistent. Political willpower, institutional capacity, and cultural resistance to non-punitive methods limit the country's ability to implement the many international accords it has signed. Human rights standards primarily impact reformist discourse and pilot initiatives rather than systematic sentencing practices, underscoring the disparity between legal goals and pragmatic considerations.

Emerging Trends and Reform Trajectories

All jurisdictions exhibit distinct reform trends in their punitive ideas and social-political processes. Pressure is growing on the United States to end mass imprisonment, strengthen sentencing commissions, and expand rehabilitative measures, but a political gap makes change momentum difficult. Chile seeks to consolidate its restorative and rehabilitative justice systems,

extending alternatives to incarceration and incorporating community penalties despite legislative hurdles. The system shows a gradual but continuous conformity with human rights norms in sentencing.

Reform initiatives in Bangladesh are still in their early but promising stages, notably for pilot programs in restorative justice and juvenile justice. Institutional opposition, sociopolitical interference, and traditional punitive attitudes all have a negative impact on structural transformation. Its future success is dependent on political will and capacity building.

Discussion

The following study combines the comparative material with the framework of penal theory, linking theoretical models to practical realities in the United States, Chile, and Bangladesh. It critically investigates how retributive, deterrent, rehabilitative, and restorative approaches are applied in various legal traditions and socio-political settings. This section aims to improve our knowledge of how punishment ideologies influence and are shaped by the societies in which they live by placing these sentencing models in the context of wider moral arguments and institutional circumstances.

Linking Findings to Penal Philosophy Theory

The comparative findings of this study contribute to the existing body of knowledge on criminal philosophy by offering more complex insights into the distinctive manifestations of classical doctrines in various legal and sociopolitical settings. The prevailing paradigms of retributivism and deterrence continue to be prevalent in Bangladesh and the United States, confirming their continued use as the principal defences of punishment. However, its widespread use has drawn criticism for perpetuating systemic injustices and the persistent problem of mass imprisonment, which has been seen as undermining the moral basis of long-standing punishment regimes (Roberts, 2025). This situation necessitates that penal theory develops towards a synthesis of normative rationales and socio-structural criticisms.

The incorporation of rehabilitative and restorative justice ideas in Chile is a notable example of penal theory being adapted to democratic consolidation processes and prioritising human rights. The incorporation of these principles into formal sentencing procedures is consistent with current academic discourse, which supports a shift away from punishment-focused justice and towards more comprehensive frameworks that prioritise healing, social reintegration, and active community involvement. This transition advances penal philosophy by demonstrating the viability of alternatives to punitive techniques within civil law regimes.

The prevalence of deterrent and retributive frameworks in Bangladesh, as well as rising rehabilitative measures, demonstrates the deep layering of criminal rationales in postcolonial contexts. This dichotomy is consistent with theoretical perspectives that emphasise the long-term impact of colonial legacies on modern legal systems, impeding reform approaches. The study emphasises that criminal philosophies are more than just abstract concepts; they are inextricably linked to historical, cultural, and political circumstances, needing a sophisticated and contextual theoretical approach.

Divergences and Convergences in Sentencing Rationales

The distinction between the United States' punitive sentencing system and Chile's rehabilitative approach is important and indicative of deeper ideological differences in criminal justice theory. While the United States' reliance on retribution and deterrence, reinforced by mandatory pleading requirements and plea bargaining, demonstrates a political culture based on risk management and control, the resulting systemic outcomes, such as excessively high incarceration rates, have sparked fierce scholarship and policy debate about the efficacy and justice of such rationales. In contrast, Chile's focus on restorative measures, individualised punishment, and judicial discretion represents an offender-accountability paradigm grounded in human rights, which balances society repair with offender responsibility. However, the challenge of putting this into reality shows that to effectively implement their impact, rehabilitation principles need enough funding and institutional dedication.

Bangladesh finds itself wedged between punishing criminal past and incoming reformist ideas. Its sentencing rationales are based on deterrence-oriented practices established from 887 | Journal of Law & Social Politics

British colonial criminal statutes, which are reinforced by political and administrative imperatives to maintain order. In contrast to Chile, where human rights movement has a significant impact on criminal reform, Bangladesh's development challenges include governance and socioeconomic inequality. Nonetheless, contemporary criminal reforms aimed at juvenile justice and restorative justice procedures offer opportunities for gradual improvement.

Despite these differences, the comparison reveals some striking similarities: all three regimes struggle to balance deference to offender dignity and public safety concerns, and all face conflicts between doctrinal principles at the sentencing stage and practical considerations of sentence outcomes. It indicates an ultimate punitive dilemma that transcends regional customs.

Socio-Political Dimensions of Sentencing Philosophy

The political culture, governmental structures, and normative frameworks of each nation have a significant influence on the sentencing guidelines. Retributive and deterrent justifications have all too often been established in the United States at the expense of their rehabilitative counterparts due to the combination of punitive political dispositions, racially biased enforcement tactics, and mainstream media discourses. Furthermore, the political economics of mass incarceration clarifies the complex relationship between sentence justifications and broader social-political power dynamics while also strengthening resistance to reform.

Human rights principles were included into the legislation and sentencing process as a result of Chile's transition from military dictatorship to democracy. The impact of international human rights commitments and civil society action has been substantial, demonstrating the normative implications on the evolution of criminal philosophy. The outcome of rehabilitative sentencing reform is still influenced by institutional capability and regionally uneven development.

Deterrence and punishment remain the dominant philosophical pillars in Bangladesh due to the country's persistent socio-political instability, lax enforcement of the law, and ingrained bureaucratic obstacles, which impede the progress of sentence reform. The significant influence that foreign actors may have on domestic penal philosophies is demonstrated by the increasing engagement of both domestic and international non-governmental organisations, which is enabling gradual shifts towards restorative justice.

Societal Implications of Sentencing Philosophies

Philosophies of sentencing also have real-world implications for imprisonment rates, social responses to crime, and the administration of justice. The US's concentration on retributive-deterrent policies has led to a long-term over-incarceration rate, which has large societal costs in the form of racial inequities, economic marginalisation, and family dissolution. All too frequently, public opinion affected by punitive language triumphs over restorative and rehabilitative goals, ensuring the continuation of exclusionary and stigmatising practices.

Chile's restorative and rehabilitative sentencing models prioritise restoration and reconciliation to reduce the number of inmates and improve social cohesion. As measures of broader societal gain, these procedures have been linked to lower rates of recidivism and higher victim satisfaction. Cultural resistance and institutional limitations, however, might occasionally thwart the goals' inclusive realisation.

Penal sentencing policies in Bangladesh impact both social safety and offender reintegration by causing jail overpopulation and a lack of rehabilitation options. In societies where transformation is difficult to achieve, sentiment favours punishment and deterrent above rehabilitation. However, new restorative justice initiatives can change both the ways that justice is administered and the attitudes of society.

Critical Reflections on Penal Rationales in Mixed and Postcolonial Contexts

This comparative analysis emphasises the necessity of criminal philosophies that are sensitive to the customs and circumstances of postcolonial and mixed jurisdictions. Bangladesh is a prime example of how colonial legacies influence modern criminal logics, making it difficult to implement restorative or rehabilitative ideologies smoothly. Hybrid analytical frameworks that adequately address both historical continuity and altering normative obligations are necessary in such circumstances. Furthermore, the results show that criminal justifications are dynamic and

constantly reframed by social oppositions, political debate, and legal interpretation. An interdisciplinary approach that integrates legal theory, sociology, political science, and cultural studies is necessary to fully understand the ideologies that underpin punishment in light of these dynamics.

The paradigm shift between punishment restoratives in the three countries reflects broader discussions about the goals of punishment and the social function of the law in the criminal justice literature. It draws attention to the need for efforts at criminal reform to be grounded in sociopolitical reality while also searching for normative values of justice and human dignity.

CONCLUSION

This study demonstrates that sentencing philosophies in the United States, Chile, and Bangladesh are shaped by the interaction of legal tradition, institutional design, and sociopolitical context. The United States predominantly applies retributive and deterrent rationales through mandatory minimum sentences, plea bargaining, and sentencing institutions associated with a punitive political culture. Chile places greater emphasis on restorative and rehabilitative justice, supported by its civil law tradition, democratic transition, and commitment to human rights, although implementation remains uneven. Bangladesh combines retributive and deterrent legacies inherited from colonial law with emerging rehabilitative and restorative reforms, whose application continues to be constrained by institutional capacity, governance conditions, and socioeconomic inequality.

The comparative findings confirm that sentencing rationales are not autonomous legal concepts but context-sensitive practices influenced by political culture, governance quality, human rights commitments, and societal perceptions of justice. By integrating doctrinal comparison with sociopolitical analysis, this study contributes to comparative criminal law and penal philosophy by explaining why similar sentencing objectives operate differently across common law, civil law, and postcolonial legal systems. The findings therefore support sentencing reform that balances punishment, deterrence, rehabilitation, restoration, public safety, offender dignity, and victim interests while remaining responsive to the historical and institutional realities of each jurisdiction.

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AUTHOR CONTRIBUTION STATEMENT

Md Sohel Rana was responsible for conceptualization, methodology, investigation, formal analysis, writing the original draft, editing, and approving the final version of the manuscript.

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