

Date: 12.08.2022

# Theories of Punishment

CC-6

SEM-III

Department of Philosophy

Pranab Kirtunia

Assistant Professor

Bejoy Narayan Mahavidyalaya

# Introduction

- ▶ The punishment is inflicted upon an offender who has committed a wrong. It deters not only the person who has committed a wrong but also others from committing a same crime. It must be for any legal wrong.

# Theories of Punishment

- ▶ Every society sets certain norms for itself and if anybody deviates from such specified norms then he will be punished by the society.

# Theories of Punishment

- ▶ Retributive
- ▶ deterrent
- ▶ Expiatory
- ▶ preventive
- ▶ reformative.

# Retributive theory of punishment

- ▶ Retributive theory is based on rights, desert and justice. The guilty deserve to be punished, and no moral consideration relevant to punishment outweighs the offender's criminal desert is the philosophy of retributive theory.

# Punishment: According to Hegel

- ▶ According to Hegel, punishment ‘annuls’ the crime. It aims at restoring the social balance disturbed by the offender. The offender should receive as much pain and sufferings as inflicted by him on his victim. Teeth for teeth, eye for eye are the basic principle of this theory.

# Reformative theory of punishment

- ▶ The object of punishment has been considerably under the process of changes from the last centuries because of the Welfare State concept. Let us give human touch to Criminal Law and reduce the brutalities of punishment is today's philosophy of law. This theory states that the object of punishment should be reformatory. The offender should be reformed.

# Reformative theory of punishment

- ▶ The prisons should be converted into reform homes. Reformist looks at sanction as instrument of rehabilitation and tries to mould the behavior of criminal on the premises that criminal is not born but made by the environment of society. The motives behind the offences must be examined there should be made a way so that offender could back to main stream. Therefore, it is the responsibility of society to reform him by adopting certain suitable methods.



# Deterrent theory of punishment

- ▶ According to this theory the object of punishment is to deter the offender from repeating the same course of conduct so that the persons and property of others may not be harmed.<sup>5</sup> The act that takes away the power of committing injury is called incapacitation, is in the form of remedy operated by the fear should be the object of punishment which is called deterrent theory.

# Deterrent theory of punishment: Bentham

- ▶ Bentham went to the extent of depriving the criminal's power of doing injury by awarding death sentences. Bentham treats the committed offences as an act of past, that should be used as opportunity of punishing the offenders in such a way that the future offences could be prevented. Glanville Williams says, deterrence is the only ultimate object of punishment. "Punishment (sanction) is before all things deterrent, and the chief end of the law of crime is to make the evildoer an example and warning to all that are like minded with him."

# Conclusion

- ▶ Each theory of punishment should be used independently or combined according to the merit of the case. Human beings neither are angels capable of doing only good nor are they demons determined to destroy each other even at the cost of self-destruction. Taking human nature as it is, complete elimination of crime from the society is not only impossible but also unimaginable. It is stated that 'every saint has a past and every sinner has a fortune'<sup>19</sup> Criminals are very much part of the society and society has to reform and correct them and make them sober citizens

THANKS

