**Punishment**

**Introduction**

Punishment, according to the dictionary, involves the infliction of pain or forfeit, it is the infliction of a penalty, chastisement or castigation by the judicial arm of the State. But if the sole purpose of punishment is to cause physical pain to the wrong-doer, it serves little purpose. However, if punishment is such as makes the offender realize the gravity of the offence committed by him, and to repent and atone for it (thus neutralizing the effect of his wrongful act), it may be said to have achieved its desired effect. A person is said to be "punished" when some pain or detriment is inflicted on him. This may range from the death penalty to a token fine.

**Purpose of punishment**

In primitive times, crimes were mainly attributed to the influence of evil spirits, and the major purpose of punishment was to placate the gods. Later, in the evolution of punishment more stress was laid on social revenge, because crime was considered a willful act of a free moral agent. Society, outraged at an act of voluntary perversity, indignantly retaliated. Thus, we started punishing primarily for vengeance or to deter or in the interest of a just balances of accounts between “deliberate” evil doer on the one hand and an injured and enraged society on the other.

Those who have introjected the moral norms of the society cannot commit crimes because their self-determined concept will not permit them to do so. Only unsocialized (and therefore amoral) individual fit the model of classical criminology and is deterred from expressing deviant impulses by a nice calculation of pleasures and punishments. Other things being equal, the anticipation of punishment would seem to have more deterrent value for inadequately socialized members of the group. According to Durkheim minute gradation in punishment would not be necessary if punishments were simply a means of deterring the potential offender. Even though punishment is uncertain, especially under contemporary urban conditions the possibility of punishment keeps some conformists law-abiding.

Durkheim talks about punishment as a means of repairing “the wounds made upon collective sentiments”. According to him, the punishment of offenders promotes the solidarity of conformists. When the conformist sees others defy rules without untoward consequences, he needs some reassurance that his sacrifices (being a law-abiding citizen) were made in good cause.

Now, the trend is towards treatment of the offenders. Criminologists all over the world profess that criminals are as good or rather as bad as patients, and they need to be treated, not punished. It would be an error to suppose that punishment is invariably experienced as painful by the criminal whereas treatment is always experienced as pleasant by the psycho-pathological offender. On this assumption, punishment may be a necessary preliminary to a rehabilitation program in as much the same way that shock treatment makes certain types of psychotics accessible to psychotherapy. Those offenders who regard punishment as a deserved deprivation resulting from their own misbehavior are qualitatively different from offenders who regard punishment as a misfortune bearing no relationship to morality.

**Types of punishment**

Though, different types of punishments are prevailing world-wide but the most common and well-known types of punishments are as follows;

* Capital punishment
* Deportation
* Corporal punishment
* Imprisonment
* Solitary confinement
* Indeterminate sentence
* Fine.

1. **Capital punishment**

In the history of punishments, capital punishment has always occupied a very important place. In ancient times, and even in the middle ages, sentencing offenders to death was a very common kind of punishment. Even what might be considered as minor offences in modern criminal law, attracted the death penalty in those days. In England, there was a time when there were as many as 200 felonies for which the punishment was death. Even the offence of theft of property worth more than two shillings would attract the penalty of death. Till the middle of the seventeenth century in England, even the penalty for the offence of forgery was death. Then there arose a movement in the 18th century, which raised its voice of protest against the inhuman type of punishment. Bentham can be considered as the spearhead of this movement. He analyzed the causes of crime, and showed how punishment would serve its purpose. According to him, punishment itself was an evil, but a necessary evil. No punishment was to be inflicted unless it brought greater good. The object of capital punishment is said to be two-fold. By putting the offender to death, it may instill fear in the minds of others and teach them a lesson. Secondly, if the offender is an incorrigible one, by putting him to death, it prevents the repetition of the crime by that person on a permanent basis. But it is evident that this punishment is not based on the reformative object of punishment, in the sense that it is a step of despair. Capital punishments are nowadays awarded world-wide in heinous crimes. There have been many arguments for and against this kind of punishment.

**Arguments against Capital Punishment**

* Those who denounce this kind of punishment argue that capital punishment has not served its deterrent object at all. For example, in certain States of the United States of America, where the death penalty has been abolished, there are fewer serious crimes than in other States, where capital punishment is still retained. If capital punishment has the deterrent effect which it is supposed to have, crimes in the former States ought to have increased, and crimes in the latter States ought to have decreased. Therefore, it is argued that the statistics do not prove the deterrent effect of capital punishment.
* Professor Henting draws our attention to another salient defect of the capital punishment: No thinking person can claim that our law of evidence and the law of procedure are foolproof, and always lead us inevitably to the truth. It is possible that there are judicial errors, and in such a case, capital punishment, once it is awarded and the person executed, cannot be revoked.
* Criminologists, who argued against capital punishment are of the opinion that it is not necessary to hang a murderer because, another person will commit murder and the chain will continue. It is the need of the day to eliminate the causes due to which an individual commit murder.

**Arguments in favor of Capital Punishment**

* On the other hand, those who advocate capital punishment argue that there are some offenders who are not only incorrigible, but who are immensely dangerous to society, and there is no reason why society should be burdened with maintaining such people. If you cannot cure, and If this incorrigible element is harmful to human society, why not remove it altogether?
* Another argument pressed in favor of capital punishment is that it must be remembered that punishment by the State is a substitute for private revenge. If a murderer is not punished with death, it is quite possible that other relatives of the victim might murder the murderer, and thus a chain of murders might set in.

1. **Deportation**

Next to capital punishment, a method of elimination of incorrigible or dangerous offenders is the punishment of deportation. In India, and England it used to be called transportation. This could hardly be a solution to the problem. If a man is dangerous in one society and if he is let loose in another society, he is likely to be equally dangerous there also. Even if a separate colony or settlement were to be created for deportation of such offenders, the problem of maintaining such a settlement might create a number of difficulties, in addition to such a colony having a degrading influence on the character of the offenders. This kind of punishment was abolished in England a long time ago, and it has also now been abolished in India.

1. **Corporal punishment**

Corporal punishment includes modulation, flogging (or whipping) and torture. This was a very common kind of punishment in the ancient and the medieval times. In ancient Iran and ancient India, and even in times of the Mughal Rulers and the Marathas, whipping was commonly resorted to. Elsewhere also, right up to the middle Ages, whipping was one of the commonest form of punishment. It was also very severe form of punishment, and many prisoners bled to death as a result of the wounds received by the lashes. Whipping in public was also quite common, and we read, in history, of cases where the whipping continued mercilessly even after the prisoner had fainted.

The main object of this kind of punishment is deterrence. It has been long ago realized that this kind of punishment is not only inhuman, but also ineffective. The person who undergoes this kind of punishment may become more antisocial than he was before. The criminal tendencies in him might be hardened and reforming him might become impossible. Moreover, whipping was common in the reign of Hazrat Umar (RA) and other pious caliphs. Dozens of examples of whipping are there in the history of Islam.

1. **Imprisonment**

Imprisonment, if properly used, may serve all the three important objects of the punishment. It may be a deterrent, because it makes an example of the offender to others. It may be preventive, because it disables the offender, at least for some time, from repeating the offence, and it might, if properly used, give opportunities for reforming the character of the offender. Imprisonment contain deterrent, preventive, and reformative characteristics. Today, imprisonment is prevalent all over the world.

1. **Solitary confinement**

Solitary confinement is an aggravated kind of imprisonment. This kind of punishment exploits fully the sociable nature of man, and by denying him the society of his fellow beings, it seeks to inflict pain on him. It has been felt by many criminologists that this kind of punishment is inhuman and perverse. It is possible that this might turn a man of sound mental health into a lunatic. If used in excess, it may inflict permanent harm on the offender, though in limited cases, if used in proportion, this kind of punishment may be useful. But if those limits are surpassed, it is likely to be unnecessarily cruel. The most famous solitary confinement exists in Cuba (United States) known as “Guantanamo Bay”. The spy agencies of different countries of the world, including Pakistan, use solitary confinements for offenders of heinous crimes.

1. **Indeterminate sentence**

Another kind of imprisonment, which may serve the reformative purpose to a greater extent, and which is to-day extensively used in the United States, is the method of awarding an indeterminate sentence. In this case, the accused is not sentenced to imprisonment for any fixed period. The period is left in determinate at the time of the award, and when the accused shows improvement, the sentence may be terminated. This kind of sentence serves the reformative purpose to a considerable extent, as even in prison, the offender has a very strong motive to reform himself.

1. **Fine**

Some criminologists are of the opinion that the punishment of fine, in addition to serving its deterrent object, also serves three more purposes. Firstly, it may help to support the prisoners; secondly, it might provide expenses for the prosecution of the prisoners, and thirdly, it may be used for compensating the aggrieved party.

This kind of punishment may be very useful in cases of criminals who are not hardened. But care must be taken to see that heavy and excessive fines, which would almost result in forfeiture of the property of the offender, should not be inflicted. Moreover, facilities for collecting fines must be created in such a way that levying of fine does not inevitably drive the offender to the prison on account of his inability to pay the fine. Punishment of fines are prevalent in almost all countries of the world.