

Criminology and penology.

LL.B IV Sem -

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Ques

What do you mean by punishment? what are the various forms of punishment awarded to the offenders? and theories of punishment -

Ans

Definition of punishment -

The concept of punishment is that of inflicting some sort of pain on the offender for his violation of law. This is an instrument of public justice. For example, if a thief is prosecuted and brought before a court, his case heard, punishment awarded by the court and finally executed by the state. Then this becomes punishment in legal sense. It will not be punishment in a law if a father beats his son for committing a theft in his house.

H.L.A. Hart

→ has defined "punishment" in terms

of following five elements -

① - It must involve pain.

② - It must be for an offence

2.

3. It must be actual.
4. It must be intentionally administered by human beings.
5. It must be imposed and administered by an authority.

Kind of punishment

Under Indian penal code - section 53. There are many kinds of punishment such as -

1. Imprisonment
2. Capital punishment
3. Imprisonment for life.
4. Fine.
5. Forfeiture of property.

① Imprisonment is of the following four kinds

① Simple Imprisonment

is awarded for the minor offences, which are not considered very serious.

① Reformatory Imprisonment

differs from simple imprisonment in the sense that the prisoner has to put his labour while serving the prison term.

These days, due to reformatory attitude various training programmes are organised for the prisoners. So that they may live a normal and responsible life after returning to the society.

② Solitary Confinement

is a very brute form of punishment. The prisoners are put in the solitary cell and they are not allowed to meet the other prisoners.

③ Imprisonment for life

for the whole of life

is also a mode of punishment. Generally, in cases of Death sentence, it is provided as an alternative punishment and the court U/s. 302 IPC has discretion to a death sentence or life imprisonment depending upon the

gravity of the act.

5 monetary punishment → such as

① fine. Fine - In some cases fine is the only punishment. In some cases the fine awarded with prison term.

2. Forfeiture of property is another form of

punishment. The offender is deprived of his property.

④ Capital punishment in India

is the most barbaric

and brutal.

The offences for which capital punishment is prescribed under Indian penal code are as follows -

①

waging war against the Government of India

② Murder Sec 302 1-PC

3. Dacarty accompanied with murder - Section 396

4. Attempt to murder Under sentence of Imprisonment if hurt is cause in such attempt

Theories of punishment

The different theories of punishment are as follows -

1. Deterrent theory
2. Preventative theory
3. Retributive theory.
4. Reformative theory.

① Deterrent theory → The term - Deter means

to abstain from doing act. The main purpose

of this theory is deter (prevent) the

criminals from doing the crime in

future.

This theory also be lesson to the other members of the society. This theory has proved effective, even though it has certain defects.

② Retributive theory

This theory of punishment is based on the principle "An eye for an eye, a tooth for a tooth". ~~Retribute~~ Retributive means to give in turn. The object of this theory is to make the criminal realize the suffering of the pain.

③ Preventive theory

aims to prevent the crime rather than avenging it. and the idea to keep the offender away from the society. - criminals under this theory is punished with death or life imprisonment.

④ Reformatory theory

This theory is the most humane of all the theory theories which aims to reform the legal offenders by individual treatment. This theory has been proved to be successful.