

THEORIES OF PUNISHMENT

The conception of crime has undergone revolutionary changes with the discovery of new factors leading to crime particularly the environmental factors. This has brought about changes in the treatment of criminals particularly the juvenile offenders. New ideas and patterns of punishment have come into force while others have lost currency. The reasons why society punishes criminals are bound with several conceptions attributes and values as well as with more recent justification and motives.

DEFINATIONS

- According to Reckless “Punishment is the redress that society takes against an offending member”.
- The objects of punishment are to bring about reformation of the offender, to prevent him committing crime again, and to prevent other persons from committing crimes.

Three Theories of Punishment

■ RETRIBUTIVE THEORY

This theory based on the idea of revenge or on the primitive concept of tooth for a tooth and an eye for an eye. The principle is that if a man has caused the loss of man's eye, his eye shall also caused to be lost. This is to pay back to the wrongdoer for his wrong doing in equal amount. Historically first impulse of revenge was gratified by retaliatory measures the part of the individual who suffered by the crime committed. Later the state took away the right of retaliation from individuals because it was believed that since the criminals has broken the laws and hurt some one he deserves to suffer.

However, this theory of retribution is rejected as it is a reminder of the barbaric conceptions

PREVENTIVE MEASURES

The crime prevention programme may be discussed under two heads viz. Prevention programme and treatment or correctional programme. In the preventive programme the best method to control crimes is to check its occurrence in the childhood the other programmes suggested by Achauffenburg are "To curb the sale, distribution and use of alcohol, by eliminating over crowded housing, by educating the masses to appreciate the values of family life and intellectual pleasures, to care for the sick and the incurable to regulate aid to the poor to establish unemployment offences to increase the use of social benefits, insurance against sickness, accidents and unemployment and to curb illegitimate births, prevent demoralization of children, the care for released prisoners in obtaining work for them, to develop adequate policing along with a strengthening of public feeling for strict observance of law. Mr. Venugopal Rao says stress on the need for trained and adequate police force and revival of old village organizations known as vigilance committees to obtain public co-operation in the prevention of crime. Similar organizations will also be needed in towns and cities

Prevention may be regarded as a ultimate response to delinquency and crime because of its superiority to the laborious rooting out and punishment of criminals. In the long run ,prevention promises to be more effective in reducing the volume of crime in minimizing the burden of crime control programmes on tax payer.

Prevention efforts are directed towards strengthening the family , the school and other social institutions and toward the eradication of mental and personality traits in the individual that are associated with criminal delinquentbehaviour. Various approaches, including psychiatry, vocational education, sterilization, social work, recreation and medicines are used in these efforts.

Reformative Theory

- The reformative theory is the most popular theory today. It holds that the proper aim of criminal procedure is to reform the criminal so that he may become adjusted to the social order. According to this theory it is necessary that punishment is replaced by some alternative so that an offender might preserve his self respect and renew loyalties for group standards. As a result criminologists started talking of reformation and rehabilitations.

- This theory implies that the offender while punished by detention, be put to educative and healthy influences. He should be re-educated and his character traits be re-shaped and put once again in the furnace to be moulded. Reformatory punishment may mean either that the offender is reformed by punishment itself. The i.e. his childhood or bad heritage, environment, physical and personality make up. According to them it is not the physical person of the individual who is to be punished or penalised but it is his mind which needs reformation or rehabilitation. This responsibility of reformation and rehabilitation rests on the state.

Reformative Theory

- It may be added that 1) Reformative theory gives importance not to crime but to criminal. 2) It considers defective functioning of social systems and social structures, defective environment, lack of opportunities to achieve one's goal as the causes of crime.
- In the recent years several novel experiments have been made, one of which is open prison systems. It is characterised by a degree of freedom from physical barriers such as walls locks and guards. The object of such prison is to aim at the development of self respect and sense of responsibility. Such open prisons exist at Yerwada (Maharashtra) , Lucknow and Ajmer. Here a prisoner is given ethical-religious education, recreational facilities, games, sports, cinema, shows. Wages are paid to them for the work done. Punishment is completely eliminated and is replaced by persuasion.
- This theory has been supported by many view points such as Southerland's theory of psycho-analytic theory, sociological or social structure theory and cultural consistency theory.