**Applied Philosophy** (GS F312) **Submitted by:**

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**Crime and Punishment**

Crime is the unlawful act against the society and forbidden by the law. It can vary from one state to another state. It changes in respect of time and space because something which is punishable in the past it may or may not be punishable now in the same country. Murder, assault, rape and burglary etc. are comes under criminal act which are prohibited by criminal law. If there is a crime then there is corresponding punishment that is the fact of law. Punishment is nothing but a deprivation, taking away from offenders what they value it can be freedom or some of their money when they are fined. But it is always matter of debate that how do we determine the appropriate amount of punishment for various offenders? Whenever we say about traditionally then law goes into excess side and when goes to the progressive world or modern world then we get to see it is going on the lenient side.

Theories of punishment seek to answer of these questions. They do not tell us why crimes are committed, they are normative theories. They tell us how criminals ought to be treated. They state the condition under which punishment is justified, and provide the basis for assessing the correct punishment.

***Normative Theories of Punishment:***

There are various interpretations available about punishment. There are three normative theories which are as follows-

* Retributive Theory
* Utilitarian Theory
* Reformative Theory

There are two main types of theories of punishment, Retributive theory and Utilitarian theory. Reformative theory is comes out from utilitarian theory. In fact it has gone a one step further in the direction of utilitarian theory. It can also be consider as an improvisation of the second theory.

***Retributive Theory:***

Retributive means to give in **turn**. The retributive theory restricts punishment to those who voluntarily broke the law for only they are guilty of moral wrongdoing. The innocent may not be punished. Retributive theory justifies punishment on the basis of a person’s past wrongdoing. They should be punished for their wrongs past doing act .They have done something wrong in the past and that has to be corrected. The degree of punishment should vary with the extent of the wrongdoing. For example a person who has deliberately kills someone is obviously guilty of a far more seriously wrong act than one who simply steals a shirt, in the same way murderer should be punished severely whereas the pretty thief should not. Some proponents appeal to the law of retaliation that punishment should inflict on offenders what offenders have done to their victims: *“an eye for an eye, a tooth for a tooth and a life for a life.”*So the aim of this theory is to make the criminal realize the suffering of the victim by given him the same kind of pain as he has inflicted on the victim.

Suppose we accept the claim that wrongdoers deserve to suffer for what they have done in the past. This in itself does not justify the imposition of punishment by the state in order to make them suffer. The retributive theory does not rely on effect of the punishment to justify it. Hence it cannot appeal to this protective function of the state to vindicate its interest unmaking wrongdoers suffer. What about if some wrongdoers already suffer as a result of their criminal act. For example burglar breaks her leg in the course of committing her crime and incompetent arms robber shoots his foot. Then the question arrived that should the state make the suffer more by inflicting punishment?

***Utilitarian Theory:***

A utilitarian justifies punishment solely in terms of its good consequences. According to this approach punishment is not consider as good in itself because punishment is pain and Anything which tends to produce pleasure is good and anything which tends to produce pain is bad. The utilitarian regards every kind of suffering as bad in itself, and to be justified only if it is leading to good consequence and less suffering or pain.

If by punishing offenders we deter them from repeating their crimes, or we prevent potential offenders from committing similar crimes, then the punishment produces *desirable consequences* which outweigh the harm to the offender. So that way we can say the chief function of punishment is to reduce crime.

In most legal system only those who have broken the criminal law are punishable. But utilitarian are committed to punishing the innocents if by doing this it produces good consequences. **For example** suppose a horrific crime has been committed by a member of one religious group against a member of different group. And unless an innocent member of the first group is framed for the crime and people of second group took the law into their hand and attack innocent member of first group. Here swift punishment is needed to restore the harmonious between the two groups, but guilty person cannot be found.

***Reformative Theory:***

The reformative theory is the most acceptable by many thinkers theory today. This theory is the mixture of sentimental and utilitarian motives. The **reformative theory** of punishment emphasizes on reformation of offenders so that he may get readjusted in the society and start living as we are living in the society. It is based on the humanistic principle. It believes that simply inflicting pain is not good so it is necessary to re-educate the criminal to enable him to become a useful member of society.

The reformative theory must be so designed as to produce desirable changes in the personalities of offenders. It may also be require restriction of liberty and curtailment of rights and privileges. So the reformative theory of punishment must be a balanced approach it should not be as pleasant as to encourage further criminal activities.

***According to Bentham:***

*“The punishment is not an act of anger or revenge but is an act of calculation, disciplined by considerations of the social good and the offenders' needs.”*

The main aim of the reformative and utilitarian justification of punishment is that it would persuade the offender to accept his sufferings and realize his own guilt that he has done something wrong in the past.

***Conclusion:***

When we try to justified crime and punishment on the basis of ethical theories then it is a little bit difficult because normative theories of punishment provide different-different reasons to justify punishment. Since practice of punishment appears to serve an essential social purpose in a manner compatible with widely held ethical views, the institution of punishment survives, and shows every sign of doing so for a long time to come.