**PUNISHMENT**

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The goals of punishment

— The goals are several and diverse, including vindicating the law, crime prevention and

offender rehabilitation. Philosophical disputes over punishment focus on which goal is to

take priority over others and why.

— There are three theories of punishment.

**Philosophers: Hume, Kant, Hegel, Bentham, Rashdall.**

**1. The deterrent theory**

— This theory is also known as preventive punishment.

— This theory judges punishment as an example, punishment sets an example to prevent

crime.

— The goal of punishment is to refrain others from doing crimes. It is said that — punishment

on you is not for stealing lamb but that no one will steal lamb in future, it is for this that you

are punished.

— This theory approves of capital punishment.

— According to the deterrent theory the purpose of punishing anyone who has done wrong is

to deter others from doing the same wrong.

─ This view treats human beings as means to the goals.

— Human beings are not lifeless objects or machines; therefore, they cannot be treated as

means to the ends.

— Moralists criticized capital punishment as creating an example to the good of others.

— Critics of the theory hold that deterrent punishment alone cannot restrain offender;

punishment frightens, instead of frightening offender raising moral sentiment in the

offender rather plays positive role in the prevention of crime.

— Moralists often object to this view of punishment because the offender is treated merely as

a means to the good of others.

**2. The reformative theory.**

— According to this theory the aim of punishment is to reform the character of the offender

himself.

— This theory holds that inflicting pain on a man is the best way to reform him.

— It is reasonable to believe that the suffering of pain may often have a good effect on the

offender.

— It has been seen that physical pain serves as a warning and a stimulus to changing one’s

habits and the pain inflicted by legal sentence may in many cases have the same effect.

— Human beings are by nature moral and obedient to laws, it is due to social mismanagement

and due to the errors in the personality or character that man violates laws and morality.

— If society can cleanse corruptions, inequalities and other social diseases which lead to

corrupt a man we may find less offenders.

— Therefore, this theory does not approve capital punishment rather upholds punishment as a

method to the reformation of the personality and character of the offender.

**3. Retributive theory**

— According to this theory punishment is right in itself, that is fitting that the guilty should

suffer and justice requires punishment.

— Though punishment is evil but the theory holds that the offender should be punished than

prosper more than the virtuous and at the expense of the virtuous.

— In this view, the function of criminal law is to punish offences or immorality in order to

maintain a kind of cosmic distributive justice.

— In its simplest form the theory holds that the aim of punishment is to make the offender

suffer what his victim has suffered.

— This theory justifies the law of ‘an eye for an eye’ and ‘a tooth for a tooth’, that is to say,

equal punishment to equal offence.

— The offender must get punishment equal to the crime.

— This theory claims ‘as you sow so you reap’ and also supports capital punishment.

— There are two types of retributive theory

weak sense of strong sense of

retributive view retributive view

Weak sense of retributive view:

— According to this type of retributive theory nature and depth of the crime as well as the

situation and other relevant matters must be considered.

— There are other factors, like, the situations, provocation, instigation, intention of the

offender, age, mental disposition etc. which are required to be accounted before taking

punishment.

— The weak version does not support capital punishment.

Strong sense of retributive view:

— In the strong sense of the view it is believed that in order to punish the offender only the

type and weight of the crime should be counted.

— Other background factors of the crime must be avoided or ignored.

— The strong version supports capital punishment.