

# Concept of punishment

## Introduction

Punishing those who do wrong is as old as wrongdoing itself and is a fundamental part of society. Throughout history, people have agreed on what behaviors are good and acceptable. However, some actions can hurt or offend others in the group. To keep order and ensure survival, societies need to address these wrongdoings. This means that people will break laws and customs, and they should face consequences for their actions.

## Meaning of punishment

“Punishment is justice for the unjust”. Punishment is the penalty for the transgression of the law. punishment is any damage for pain inflicted on an offender through judicial procedure. punishment is a process by which the state inflicts some pain to the person or property of a person who is found guilty of a crime.

The term punishment means torture that a person should undergo on account of doing a wrong. punishment is synonyms with penalty and liability and punishment is connected with crimes of highest grade

## Definition

**The Blacks Law Dictionary** defines Punishment in criminal law as- Any pain, penalty, suffering or confinement inflicted upon a person by the authority of the law and the judgment and sentence of a court, for some crime or offense committed by him, or for his omission of a duty enjoined by law.

**The Oxford Dictionary** defines punishment -as to “make an offender suffer for an offence”.

**Thomas Hobbes** defines punishment as “an evil afflicted by a public authority on him that has done or omitted that which is adjudged by the same authority to be a transgression of the law; to the end that the will of men may thereby be disposed to obedience”

Punishment is thus the penalties imposed by the State on individuals, who violate the criminal law. It is the deliberate infliction of physical harm on an offender or his property without his consent because he is an offender but for reasons other than self-defence. Society defines the offences and prescribes punishment for them. The kinds of punishment given are surely influenced by the kind of society one lives in. During ancient period punishment was more severe as fear was taken as the prime instrument in preventing crime .In criminal law, punishment is allowed due to the wrongful intent involved in the crime, the law does not really punish the individual but punishes the guilty mind.

## **Elements of punishment**

According to H.L.A. Hart, punishment has five elements:

- It must be imposed by an authority constituted by the legal system
- It must be administered by human beings other than the offender
- It must be for an offense against legal rules
- It must involve pain or other consequence that is normally considered unpleasant
- It must be imposed on an actual or supposed offender for their offense

## **Objectives of Punishment**

1. Deterrence: Protect society from harmful individuals by discouraging potential offenders from committing crimes.
2. Prevention: Prevent actual offenders from committing further crimes.
3. Reform: Address societal issues by rehabilitating criminals and transforming them into law-abiding citizens.
4. Administration of Justice: Deliver justice by imposing penalties to discourage criminal behavior while also focusing on the reform of offenders.
5. Rule Maintenance: Uphold laws and regulations to foster a crime-free society.

## **Types of Punishment**

### **In Ancient India**

The penal system in ancient India was harsh and brutal. This severe punishment approach led to a lower rate of crime. The types of punishments include:

### **Capital Punishment**

Capital punishment refers to the legally sanctioned execution of an individual as a penalty for a crime, commonly understood as the death penalty. In ancient times, capital punishment could be imposed for relatively minor offenses. This represents the most severe form of punishment, and the methods of execution have varied throughout history.

### **Corporal Punishment**

Corporal punishment is intended to cause physical pain. It involves inflicting pain on the body as a penalty for breaking the law. The goal is to punish the offender and deter them and others from committing the same crime again.

### **Social Punishment**

Social punishment restricts a person's ability to make contracts or to interact with others. It may involve moving them to places where they can't connect with anyone who might help them.

### **Financial Punishment**

Financial punishment, or fines, is a common way to penalize smaller offences, like traffic violations or minor crimes. It may also involve compensating the victims of a crime and covering legal costs.

### **In Modern India**

Many societies still use some ancient punishments, but they have mostly evolved to be less harsh. Now, the severity of punishment depends on the crime. Serious crimes can lead to harsher penalties. In industrialized societies, punishments often include fines and prison time. The goal is to correct bad behavior rather than just punish offenders.

According to Section 53 of the Indian Penal Code, the main punishments are:

### **Capital Punishment (Death Penalty)**

In modern times, capital punishment is given for severe offenses and is a topic of much debate. It is reserved for the most serious crimes, unlike in ancient times when it was used for minor offenses. It's applied only in the "rarest of rare cases."

### **Jagmohan Singh v. State of Uttar Pradesh (1973)**

- **Issue:** Whether the imposition of the death penalty under the Indian Penal Code (IPC) is constitutionally valid.
- **Ruling:** The Supreme Court upheld the constitutionality of the death penalty under the IPC. It held that the death penalty could be imposed in the "rarest of rare" cases, but the decision of the court should be based on the circumstances and nature of the crime. This case established the framework for when the death penalty could be imposed.

Certain crimes that may receive the death penalty include:

- Waging war against India (Section 121)
- Abetting mutiny (Section 132)
- Giving false evidence leading to wrongful death (Section 194)
- Murder (Section 302)
- Murder committed by a life convict (Section 303)
- Abetting the suicide of a minor or an incapable person (Section 305)
- Attempted murder by a life convict (Section 307)
- Kidnapping for ransom (Section 364A)
- Dacoity with murder (Section 396)

After the Criminal Law (Amendment) Act of 2013, the following offenses may also lead to the death penalty:

- Rape resulting in death or permanent vegetative state (Section 376A)
- Repeat offenders of rape (Section 376E)

### **Life Imprisonment**

Life imprisonment means a person will stay in jail for their entire life. This serves as an alternative to the death penalty for some offenses. A term of life imprisonment usually means a minimum of 20 years, according to Section 57 of the Indian Penal Code.

### **Imprisonment**

Imprisonment means putting someone in jail as a punishment. There are three types of imprisonment:

- **Rigorous Imprisonment:** This involves hard labor. Offenders must do physical work in jail, like grinding corn or digging.
- **Simple Imprisonment:** In this case, offenders are confined to jail but do not have to do labour unless they choose to work for pay.
- **Solitary Confinement:** This means isolating a person from others.