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Paper :

Module :



Meaning, Aims and Types of Punishment

Component I(A) – Personal Details

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Component I(B) – Description of Module

Subject	Criminology
Paper	Human Rights and Criminal Justice
Module Title	Meaning, Aims and Types of Punishment
Module ID	
Pre Requisites	Basic knowledge of victimology and role of victim in criminal law. Understanding the writ jurisdiction of Supreme Court. Basic concepts of human rights and different international human rights instruments.
Learning Objectives	<ul style="list-style-type: none">• Be able to understand the meaning of punishment• Articulate the different aims of punishment.• Understand the changing modes of punishment .• Distinguish between different types of punishment.
Key Words	Punishment

Structure

1. Introduction
2. Definition of Punishment
3. Components and ingredients of punishment
4. Aims of Punishments
5. Types of Punishments
6. Conclusion

Introduction

Punishment of wrongdoers is as old as wrongdoing and as old as society itself. In society there has always been behavior that is socially approved and considered as good and proper by the majority of the people. Similarly there has always been an aspect of social behavior that hurt or injured the feelings of members of the same group. It is necessary to have order in societies for them to survive. Embedded in this necessity is the inevitability that individuals will break laws, rules, and customs and will, as a matter of logic and justice, be punished for it. So law (so-called if it is written) and custom (embodying law and rules that may not be written but that are “practiced” and conveyed orally) is universal in all known societies. They are part of the “civilizing” process, which seeks to hold in check the tendency of humans to devour each other. The 18th-century enlightenment thinkers upon whose ideas much of the world’s criminal justice systems are based (whether civil or common) were of the opinion that punishment was a necessary evil, a price paid for the comfort of living in an ordered society. Its universality certainly attests to the truth of this assertion. Societal reaction to violations of law in most cases takes the form of punishment. Punishment is therefore one of the devices for treating offenders to which society resorts to restore harmony or repair the damage done by the violation of the law.

As per the first ever codified law ‘Hammurabi’s Code’, retribution was the aim of criminal law system which can be achieved by an ‘eye for an eye’ approach. According to it punishment must match the wickedness of its offence.

Definition of punishment

According to **Aristotle**, Punishment is required to maintain equilibrium in the society. According to **Kant**, we could not regard world as moral, if in it, virtue goes unrewarded or sin unpunished, therefore punishment is not only permissible but it is obligatory.

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*”.

Criminal law prohibits behaviour deemed harmful to the society as a whole, whereas civil law governs private interactions between individuals. Different penologists have defined punishment; some important definitions are as follows.

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”.

Sutherland : (a) Punishment is inflicted by the group in its corporate capacity upon one who is regarded as the member of the same group. (b) Punishment involves pain or suffering produced by design and justified by some value that the suffering is assumed to have.

Ferri hold the view that : "Punishment is a legal deterrent."

WC Reckless: "Punishment is a means of social control. A group seeks redress for a wrong, an injury or for a violation of law and custom. Society, common wealth or the group meaning in this instance person in authority... conceives of punishment as a device to hold person in line, to maintain status quo to induce conformity."

E Westermarck : "Punishment is limited to such suffering as is inflicted upon the offender in a definite way by, or in the name of the society of which he is a permanent or temporary member".

Sir Walter Moberly : While accepting the definition of punishment as given by Grotious, suggests that punishment pre-supposes that:

1. What is inflicted is an ill, that is something unpleasant;
2. It is a sequel to some act which is disapproved by authority;
3. There is some correspondence between the punishment and the act which has evoked it;
4. Punishment is inflicted, that it is imposed by someone's voluntary act;
5. Punishment is inflicted upon the criminal or upon someone who is supposed to be answerable for him and for his wrong doings.

Jerome Hall (1958) described punishment in the following terms

1. Punishment is inflicting pain
2. It is coercive
3. It is inflicted in the name of the state,ie., it is authorized
4. It presupposes rules, their violation ,and a formal determination expressed in a judgment.
5. It is inflicted upon an offender who has caused harm.

6. The extent or type of punishment is in some defended way related to causing commission of the harm, and aggravated or mitigated by reference to the personality of the offender, his motive and temptation.

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. Punishment can be used as a method of reducing the incidence of criminal behavior either by deterring the potential offenders or by incapacitating and preventing them from repeating the offence or by reforming them into law-abiding citizens.

Justifications for punishment typically take five forms: (1) retributive; (2) deterrence; (3) preventive; (4) rehabilitative; and (5) restitutionary. There are limitations on the punishment that may be imposed. Some modern forms of criminal punishment reflect a philosophy of correction, rather than (or in addition to) one of penalty.

Summarizing the concept of punishment, one can suggest that punishment includes the following areas:

- Punishment inflicted is a feeling of uncomfortable and unpleasant circumstances, and involves deprivation of certain normally recognised rights.
- It is a consequence of a wrongful act (an offence)
- There must be some relationship between the punishment inflicted and the crime committed.
- Punishment is a form by which a criminal is made answerable to the society, and it is applied by the state against an offender.

Components and ingredients of punishment:

The Hon'ble Gujarat HC in the case State of Gujarat V Raghu (12) explained the components and ingredients of punishment and held the following ten most important components and ingredients of punishment.

1. Punishment is applied by employing coercion and can be enforced even against the will of the punished.
2. Punishment is a measure adopted and enforced by the State.
3. Private punishment meted out by parents, teachers, employers, the community, etc. is outside the scope of penological consequences of a crime.
4. Punishment or the limits of punishment are stipulated in advance by the State. Punishment very clearly embodies the principle of *nulla poena sine lege*, there is no punishment without the law.
5. Punishment is applied by competent organs of the State in a properly constituted legal procedure. Due process is the name of the game. Thus if a murderer is lynched by the people, then such a punishment is not punishment in the criminological sense.
6. Punishment is generally believed to be directly enforced on each individual personally. Any sort of '*collective punishment*' is outside the scope of penological punishment.
7. Punishment is a disadvantage designed to act as a negative and to hurt the receiver of the punishment mentally, emotionally, physically or financially.
8. Punishment is the consequence of crime. The prohibited act must be listed and defined as a crime in the law books.
9. Punishment is applied in the name and defence of the society.
10. Punishment is disapproval and expresses condemnation by the State.
11. Prevention of crime is main reason for the existence of penal provisions in law books.

Aims of Punishment :

The role of punishment in modern society is an extremely complex and intricate process and justifications for which are to a large extent ambiguous . Duff and Garland (1994, p.2) explain 'punishment requires justification because it is morally problematic. It is morally problematic because it involves doing things to people that seem morally wrong. It is usually wrong to lock people up'. Emile Durkheim (1893) considers punishment as fundamental to society which encapsulates and reinforces its values. Social solidarity is deemed essential for harmony to occur; society can only function if a set of shared values and beliefs are in existence.

Bringing the offenders to justice is a primary function of all civil States. Punishment and public opinion concerning it has been profoundly modified the rapidly changing social values and sentiments of the people. There are primarily two different views on punishment. One group believes that inflicting pain as punishment is fundamentally different from inflicting pain on innocents, and therefore is not inherently wrong. Another group believes that punishment is a wrong that can be justified only if it results in a "greater good" (Murphy 1995).

Those who hold the first view do not feel it necessary to justify punishment beyond the fact that the individual deserves it. This is the *retributive* approach. The second view justifies punishment through the secondary rationales of deterrence, incapacitation, or rehabilitation. This is called the *utilitarian* approach (Durham 1994).

The major driving force underlying all punishments is revenge, also referred to as retribution. The word retribution derives from a Latin word meaning 'to pay back'. In retaliation for wrong-doing, societies seek to punish individuals who violate the rules. Criminal punishment is also intended as a deterrent to future criminality. Offenders who are punished may be deterred from future wrong-doing because they fear additional punishment. Further, others who contemplate crime may also be deterred from criminal behaviour. Societies also impose punishments in order to incapacitate dangerous or unlawful individuals by restricting their liberty and to rehabilitate the wrongdoers and correct their behaviour. Punishment may perpetuate criminal dispositions and behaviour rather than eliminate them.

The various goals of criminal punishment may conflict with one another. For instance, the goal of incapacitation may be achieved by confining offenders for long prison terms. However, inmates who are warehoused in large prisons where they associate closely with other criminals and lack of control over their life may develop additional antisocial behaviours. **Reid** (1976) has referred to three objectives of punishment as -(a)Incapacitation, which is aimed at making the offender physically incapable of committing the offence by giving him corporal punishment (b) Reparation ,which is an act of compensating the loss or damage from the criminal ,and is more used in civil cases and (c) Maintenance of social solidarity as it prevents private revenge .Durkheim (1964) stated that “the true function of punishment is to maintain social cohesion intact.”

Legal scholars have traditionally identified four major aims of punishment : (1)retribution, (2) deterrence (3)incapacitation, and (4) reformative. Criminal justice scholars have recently added a fifth purpose to the list, i.e. reintegration.

The object of punishment has been succinctly stated in *Halsbury's Laws of England*, (4th Edition: Vol. II: para 482) thus: “The aims of punishment are now considered to be retribution, justice, deterrence, reformation and protection and modern sentencing policy reflects a combination of several or all of these aims. The retributive element is intended to show public revulsion to the offence and to punish the offender for his wrong conduct. The concept of justice as an aim of punishment means both that the punishment should fit the offence and also that like offences should receive similar punishments. An increasingly important aspect of punishment is deterrence and sentences are aimed at deterring not only the actual offender from further offences but also potential offenders from breaking the law. The importance of reformation of the offender is shown by the

growing emphasis laid upon it by much modern legislation, but judicial opinion towards this particular aim is varied and rehabilitation will not usually be accorded precedence over deterrence. The main aim of punishment in judicial thought, however, is still the protection of society and the other objects frequently receive only secondary consideration when sentences are being decided.”

Types of Punishments:

Human transgressions have been punished in various ways throughout history. The standard punishments in ancient Greek and Roman societies were death, Slavery, mutilation, (corporal punishment) imprisonment or banishment were some of the common punishment forms. Punishments are either corporal or not corporal. Petty criminals were often sentenced to a combination of corporal punishment and incarceration in jail for several months. The punishment for more serious crimes was usually death. Punishment was the most comprehensive and severe in colonies founded on religious principles. The former are, death, which is usually is capital punishment; imprisonment, which is either with or without labor. The maximum penalty for committing a particular offence is usually set out in the legislation of the relevant offence. The court will decide what sentence (i.e. penalties) to be imposed on an offender by taking into consideration all the relevant factors including for example the nature of the offence, the maximum penalty set out in the legislation, why and how the offence was committed, and the individual circumstances of the offender. The punishments which are not corporal, are fines; forfeitures; suspension or deprivation of some political or civil right deprivation of office, and being rendered incapable to hold office; compulsion to remove nuisances. Thus different types of punishment include : fine (amercement); detention (house arrest, custodial sentence, life imprisonment); capital punishment; electronic tagging; exile (personal exile, nation in exile); ostracism; penal harm (largely added to custodial sentences); psychological punishment; public humiliation (shameful exposure, painful humiliation, public punishment, torture marks).

Table showing Types of punishment and Aims of punishment

Punishment Types	Aims of Punishment
Capital Punishment	Protection / Deterrence
Prison	Deterrence / protection / reformation
Electronic tagging	Deterrence / protection
Fines	Retribution / Reparation
Community Service	Reformation / retribution
Probation	Reformation / vindication

The term “punishment” has not been defined in the Indian Penal Code. Section 53 of the Indian Penal Code, 1860 prescribes five kinds of punishments - 1) Death Penalty, 2) Life imprisonment, 3) Imprisonment (Rigorous & Simple), 4) Forfeiture of property, and 5) Fine.

(I) Capital Punishment :

The infliction of death by an authority as a punishment is called capital punishment. The most extreme form of punishment was and is death. Capital punishment is the practice of deliberately putting to the death of an offender as a measure of social policy. It is imposed by the governing authority of the country. Capital punishment is generally imposed for the foremost, grievous and heinous crimes against human society or human beings. It is the maximum quantum of punishment which can be given by law to a criminal, i.e. his life is put to an end by this punishment. Of all forms of punishment ‘death sentence’ or ‘capital punishment’ is perhaps the most debated subject among the modern penologists. The methods of execution have varied over time. Some popular forms of execution of punishment may be described as follows: Stoning, Pillory, guillotine, hanging.

In ancient times, and even in the middle ages, sentencing offenders to death was a very common kind of punishment. In England, the legal system became known as "the Bloody Code": between 1688 and 1815, the number of capital crimes rose from about fifty to more than two hundred. The theft of a silk handkerchief or a pocket watch might lead to execution. Until the nineteenth century, the death penalty, or capital punishment, was imposed in England for more than 200 different crimes. The death penalty loomed large in eighteenth-century statutes, but there were ways to escape a sentence to the gallows. English courts could show mercy by transporting convicts first to North America, then to Australia, for sale as servants. A defendant could be hanged, burned at the stake, or beheaded. The American colonies adopted and cultivated the traditional punishments of England.

The Indian Penal Code has prescribed death sentence as maximum punishment

The Indian Penal Code, 1860 prescribes death penalty for a number of crimes. Some of the offences punishable by sentence of death under the Indian Penal Code are treason (section 121), abetment of mutiny (section 132), perjury resulting in the conviction and death of an innocent person (section 194), threatening or inducing any person to give false evidence resulting in the conviction and death of an innocent person (section 195A), murder (section

302), kidnapping for ransom (section 364A) and dacoity with murder (section 396). Amongst these offences, death penalty continues to be used most commonly for section 302.

Additionally, many other special legislations such as the Air Force Act, 1950, the Army Act, 1950, the Navy Act, 1950, Commission of Sati (Prevention) Act, 1987 [section 4(1)], Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [section 3(2)(i)], Explosive Substances Act, 1908 [section 3(b)], Unlawful Activities Prevention Act, 1967 [section 16(1)] also provide for the death penalty.

Death sentence is awarded in 'rarest of the rare cases'. According to the Indian Penal Code the punishment of death sentence is not mandatory form for any crime. Before 1983, it was mandatory under the S.303 (Murder committed by the person who is undergoing the life imprisonment).

In *Bachan Singh V. State of Punjab* (1980 2 S.C.C. 684), the Supreme Court was faced with the question whether the death penalty imposed for some offences under the Indian Penal Code is constitutionally valid. By a four-to-one majority verdict, the Supreme Court ruled that the death penalty is constitutionally valid, and does not constitute an "unreasonable, cruel or unusual punishment." The majority pointed out that the death penalty is to be imposed only for "special reasons" and only in the rarest of rare cases. However, such provisions cannot be said to be violative of Articles 14, 19 and 21 of the Constitution. It was also observed that the fact that India had accepted the International Covenant of Civil and Political Rights does not affect the constitutional validity of the death sentence.

About 65 percent of countries have abolished the death penalty either by legislation or in practice. A few have essentially abolished it while retaining it for especially heinous crimes, although it may not have been used for many years.

(II) Deportation or Banishment :

Next to capital punishment, a method of elimination of incorrigible or dangerous offenders is the punishment of deportation. Some societies punish certain undesirable individuals, such as criminals and political and religious dissidents, with banishment or exile. In ancient times banishment was a common form of punishment, and it often amounted to capital punishment because authorities would deny food and shelter within a certain distance to those banished. Such deportation has occurred in history. For example, Britain, deported religious objectors and criminals to America and Australia in large numbers.

From 1788 to 1868 England banished more than 1,60,000 prisoners to Australia or Africa to work in labour, colonies they established. In Russia, prisoners were transported to Siberian penal camps. Banishment or transportation cannot be a solution to the problem of crime and is really does not meet the purpose of incapacitation. This kind of punishment was abolished in England a long time ago, and it has also now been abolished in India. In India, it used to be called transportation.

In India, the practice of transportation is known to have existed in penal system of British India as well. It was popularly known as 'Kala pani'. Prisoners in India, mainly freedom fighters were also transported to Andaman and Nicobar island. It was finally abolished in 1955 and replaced by 'imprisonment for life'.

Deportation involves expulsion of a person or group of people from one place or country to another. The expulsion of foreign nationals is usually called deportation, whereas the expulsion of nationals is called banishment, exile or transportation. Today, all countries reserve the right to deport foreigners, even those who are longtime residents. In general, foreigners who have committed serious crimes, or who enter a country illegally, or who overstay and/or break the conditions of their visa, or otherwise lose the right to legally stay in the country and are deported back.

(III) Corporal Punishment :

Throughout history, societies have used corporal punishments to inflict physical pain on wrongdoers. The main kinds of punishment given in the ancient times may be described as flogging, whipping etc. Until the nineteenth century, corporal punishment in England could consist of whipping, branding, or the cutting off of a body part. Noses, ears, hands, fingers, toes, and feet were all subject to removal for criminal acts. Often the body part sliced off was the part thought responsible for the act. A pickpocket, for example, could have his hand cut off. These have now been discontinued being barbarous and cruel in form. Corporal punishment could be inflicted in addition to other punishments, such as banishment, forced labor, or short-term incarceration.

Corporal punishment includes modulation, flogging (or whipping) and torture. This was a very common kind of punishment in the ancient and the medieval times. In ancient Iran and ancient India, and even in times of the Mughal Rulers and the Marathas, whipping was commonly resorted to. Elsewhere also, right upto the Middle Ages, whipping in public was one of the commonest form of punishment. It was also very severe form of punishment, and

many prisoners bled to death as a result of the wounds received by the lashes. The main object of this kind of punishment was deterrence. It has been long ago realized that this kind of punishment is not only inhuman, but also ineffective. Though whipping was one of the kinds of punishment originally provided in the Penal Code, it was abolished in 1955.

Perhaps surprisingly, less than 20 percent of the world's countries have prohibited by legislation the use of corporal punishment either as a sentence for a crime or for use in prison discipline. Medically-supervised caning is used regularly in Singapore and other countries. The wide cane is soaked in water to prevent it from splitting during use. The offender is ordered to strip naked, examined by a doctor and then whipped on the bare bottom at full force. Iran defends the use of mutilation as a form of punishment under the country's judicial system.

(IV) Imprisonment :

It was originally used as a means of detention till the trial was completed or debt was paid. Although the earliest use of imprisonment dates back to the ninth century, prisons in the modern sense became the prominent form of punishment around 200 years ago. Prior to this transportation was in regular use, however as a result of the American War of Independence in 1776 offenders had nowhere to be sent and Parliament began to search for alternative punishments. The notion that imprisonment could be used as a key punishment was embodied in the Penitentiary Act 1779.

The Indian Penal Code sanctions either a term of imprisonment or fine or both and it is left to the discretion of the court whether to inflict a sentence of imprisonment or a fine or both. The lowest term of imprisonment is 24 hours as is prescribed u/s 510 I.P. Code. Minimum term of sentence of imprisonment to be necessarily awarded is prescribed under sections 397, 298, 304-B, 376(1) 376(2) etc. A sentence of imprisonment till rising of the court is also a sentence according to law.

(V) Life Imprisonment :

The number of offenders sent to prison has risen dramatically since the end of the Second World War, and continues to grow. Ben Crewe (2007, p.123) argues 'imprisonment is the ultimate sanction of most Western societies, and prisons are a potent symbol of the states power to punish and its failure to integrate all its citizens into its system of norms'. Increases in the prison population are a reflection of high rates of 'social exclusion'. Those that are imprisoned are often those 'who are marginalised in their societies' (Coyle, 2005)

There are more than 10.35 million people held in penal institutions throughout the world, either as pre-trial detainees or having been convicted and sentenced. (World Population List 2015)

Michael Foucault (1971) regarded prison as a form of social and political control for wider society and not just an institution which controls crime and criminal behaviour. He highlighted how the eighteenth century witnessed an increase in incarceration; a period referred to as 'The Great Confinement'.

Living behind the bars is sometimes far more painful than death sentence. It is the most popular type of sentence after death penalty. In most serious offences this type of punishment is prescribed. Wherever death penalty is prescribed, life imprisonment also finds a place as an alternative punishment. As there is hue and cry regarding imposing of death penalty, in appropriate cases Courts impose life imprisonment as a safe method.

Imprisonment, if properly used, may serve all the three important objects of the punishment. It may be a deterrent, because it makes an example of the offender to others. It may be preventive, because it disables the offender, at least for some time, from repeating the offence, and it might, if properly used, give opportunities for reforming the character of the offender.

(VI) Imprisonment both rigorous and simple :

Rigorous imprisonment is of such type where the convict will have to do hard labour. In many offences the period of imprisonment varies. In simple imprisonment also the term of imprisonment varies according to offences. The Hon'ble SC has held that the rigorous imprisonment is always subject to the condition that the jail authority can impose hard labour on the convict undergoing this kind of imprisonment in almost all world constitutions including ours. It is believed that imposition of hard labour has a deterrent effect on the prospective criminals or persons with criminal mentality. In short, putting the prisoner to hard labour while he is undergoing sentence of rigorous imprisonment is not a beggar or forced labour and it is not violation of Art. 23 of the Constitution.

In the case of simple imprisonment the offender is confined to jail and is not put to any kind of work, but they can be asked to work at their own choice with wages. According to Sec. 57 of the IPC, maximum imprisonment for any offences can be awarded is 20 years.

Sentence may be wholly or partly rigorous or simple. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

(VII) Solitary Confinement :

Solitary confinement is an aggravated kind of imprisonment. This kind of punishment seeks to inflict pain on the sociable nature of man, by denying him the society of his fellow beings. Solitary confinement means keeping a person thoroughly isolated from any kind of contact with the outside world it is conflicted with a view that feeling of loneliness may produce a wholesome influence in the criminal and thus reform him.

It has been felt by many criminologists that this kind of punishment is inhuman and perverse. It is possible that this might turn person of sound mental health into a mentally ill person. If used in excess, it may inflict permanent harm on the offender, though in limited cases, if used in proportion, this kind of punishment may be useful. But if those limits are surpassed, it is likely to be unnecessarily cruel.

Section 73 of the Code empowers the Courts to impose solitary confinement to certain persons and in relation to certain offences. This punishment is also part of the imprisonment. A harsh and hardened convict may be confined in a separate cell to correct his conduct. He is put separately without any contact and interaction with other prisoners. All connections are severed with other world. The object of this punishment is to reform the hardened and habitual offender and in order to experience him with loneliness.

There are certain restrictions in imposing solitary confinement. These are:—

- (a) Solitary confinement should not exceed three months of the whole term of imprisonment.
- (b) It cannot be awarded where imprisonment is not part of the substantive sentence.
- (c) It cannot be awarded where imprisonment is in lieu of fine.
- (d) It cannot also be awarded for the whole term of imprisonment.

Further, Ss. 73 and 74 of the I.P.C. lay down the limits beyond which solitary confinement cannot be imposed under the Indian law. Thus, the total period of solitary confinement cannot exceed three months in any case; nor can it exceed fourteen days at a

time, with intervals of fourteen days in between (or seven days at a time with seven days intervals in between, in case the substantive sentence exceeds three months' imprisonment).

(VIII) Forfeiture of Property :

Forfeiture is a penalty by which one loses his rights and interest in his property. Forfeiture is meant for persons found guilty of high political offences, generally. Forfeiture of property is not very common in Indian Penal Code. Section 61 which specified sentence of forfeiture of property has been repealed by Indian Penal Code (Amendment) Act, 1921. In the present IPC sections viz 126, 127 and 129, and 169 IPC describes forfeiture of property. However, it is also provided under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985.

Asset seizure is also imposed as a form of financial law. When a person take bank's loan or stole some property and does not pay back, authority or court may decide to confiscate his house or car to compensate the complainant.

(IX) Fine :

Fine is pecuniary penalty. Imposing a financial penalty is considered to be a minor penalty. Sometimes it is imposed along with imprisonment, and sometimes as a substitute for it. The Indian Penal Code prescribes fine as a penalty both independent and along with other penalties. The amount of fine varies with offences. Section 63 says that where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive. Sentence for non-payment of fine is also dealt with in IPC[Sec.64]. Fines are normally imposed for violations of traffic and licensing regulations.

Thus, there are various penalties as discussed above which are imposed differently in different offences. The term, nature, amount etc varies in each cases and offences and also according to Courts.

(X) Other Types of Punishments :

In India some other types of punishments which have been mentioned under Special and Local Laws include -Admonition, document entry, dismissal from service. Instead of receiving a fine or imprisonment, an offender may also be placed on probation. For most purposes, probation will not count as a criminal conviction. An offender placed on probation will be supervised by a probation officer for a certain period. While the offender is free to

carry on his daily activities, he must not reoffend and must also adhere to the conditions attached to his probation, *e.g.* curfews and community service requirements. Otherwise, he may face consequences, which may include the termination of probation and the imposition of a fine or imprisonment term instead.

When deciding whether to grant probation, the Court will consider the nature and severity of the offence, the character of the offender, and a report prepared by the probation officer. Although probation is also available for adult offenders, it is more commonly ordered in respect of those below 21 years of age. This is because the main principle behind probation is rehabilitation, which is the dominant consideration in sentencing young offenders. However, this does not mean that a young offender will definitely be granted probation. The main part of judicial discretion comes in S.360 of the Code of Criminal Procedure (Cr.P.C.) which provides for release of the convict on probation. The aim of the section is to try and reform those criminals in cases where there is no serious threat to the society: A woman convicted of offence the punishment of which is not death or life imprisonment and a person below 21 years of age convicted of offence the punishment of which is not death or life imprisonment.

In some countries Community sentences now constitute other types of punishments Where the offence committed is not too serious and the offender has not been sentenced to imprisonment before (note: this does not apply to the mandatory treatment order, for mandatory psychiatric treatment), an offender may receive a community sentence instead of a fine or imprisonment. Mandatory Treatment Order : An order requiring an offender to undergo psychiatric treatment for a maximum period of two years. Day Reporting Order: An order requiring an offender to report on a regular basis for a period of 3 – 12 months for supervision and / or counselling or rehabilitation. Other orders include - Community Work Order: An order requiring an offender to perform supervised community work associated to his offence for a period of time; and Community Service Order: An order requiring the offender to perform supervised community service for a period of time.

For juveniles the focus is on reformation ,and they are sent to special home instead of prisons and can also be ordered to perform community service.

The 42nd Law commission in India recommended new forms of punishment such as - (1) Community service (2) Disqualification from holding office (3) Order of payment of compensation (4) Public censure .

Conclusion :

Earlier, penologists and criminologists advocated for punishment with the sole aim of inflicting pain on the offender. The proponents of the retributive theory sought only to punish the offender. With the evolution of utilitarian theories the aim shifted to reformation, incapacitation and reintegration. The focus shifted from the offence to the offender. People who commit crimes may be punished in a variety of ways. The inflicted punishment may be physical, economic, psychological or social. Offenders may be subject to fines or other monetary assessments, the infliction of physical pain that is corporal punishment or confinement in jail or prison for a period of term, which is called incarceration, or to capital punishment (i.e., death sentence). A punishment such as incarceration seeks to give any victim involved, retribution against the offender, deter the criminal from future criminal acts, and hopefully rehabilitate the offender. This is distinguished from civil law, which seeks to compensate the injured party rather than punish the wrongdoer. With change in time and development of human mind the punishment theories have become more tolerant. Presently there is also opposition to capital punishment, which is viewed as inhumane, though it was a major form of punishing the criminals earlier. In general, State punishes the individual to achieve revenge against wrongdoers and to prevent further crime—both by the person punished and by others contemplating criminal behaviour. Worldwide now there is an increasing focus on reducing imprisonments and using alternatives to imprisonment as a mode of punishment. Penologist today therefore advocate for non-custodial remedies such as probation, parole, discharge, community service orders, fines etc that seek to punish, rehabilitate and heal the offender in such a way that he will not revert to crime.
