**Quadrant II - Notes**

**Paper Code:** **CPE 0813**

**Paper Title : CRIMINOLOGY, PENOLOGY & VICTIMOLOGY**

**Module Name: Concept of Punishment**

**Module No: 23**

**Introduction:**

We have all heard the word ‘punishment’ and may have even experienced it. What is punishment for the purpose of our subject? Various definitions have been provided by various scholars to understand the meaning of the word punishment. Punishment is the infliction of pain/unpleasant thing on a person for committing a wrongful act.

**Definitions:**

According to Dr. W. Reckless- “Punishment is the redress that the Commonwealth takes against an offending member.” According to Thomas Hobbes- “Punishment is an evil inﬂicted by public authority on a person that has done or omitted that which is judged by the same authority to be a transgression of the law; to the end that the will of men may thereby the better be disposed.”

To put it simply, “Punishment is the penalty inflicted by the State upon a person adjudged guilty of crime”. Punishment may involve the deprivation/loss of freedom, property, life, reputation,comfort etc

**Concept of Punishment:**

Sir Walter Moberly suggests that punishment presupposes that –

1. What is inflicted is an ill- i.e. 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-i.e. it is imposed by someone’s voluntary act
5. Punishment is inflicted upon the criminal who is supposed to be answerable for his wrongdoing.

**Conditions of Punishment:**

Flew-Benn-Hart -5 conditions for an act to be an instance of punishment:(i)It must involve pain or other unpleasant consequence (ii)It must be for an offence against legal rules(iii)It must be for an actual offender for his offence(iv)It must be intentionally administered by human beings other than the offender(v)It must be imposed and administered by an authority constituted by a legal system against which the offence is committed.

Broadly speaking, the definition- enables one to understand what constitutes punishment and what does not.

**Nature and Character of Punishment**

Punishment is the consequence of an act defined as crime. It is an expression of condemnation/disapproval by the State. It is a disadvantage designed to hurt the receiver mentally, physically, emotionally and financially. It is imposed by the competent organs of the State through a properly constituted legal procedure. It is administered as prescribed by the law for various offences.

**Kinds of Punishments**

**Traditional Punishments:**

Flogging/Whipping,Stoning,Mutilation, Branding, Transportation, Capital Punishment, Imprisonment Solitary Confinement, Forfeiture of Property ,Fines are some of the punishments that were imposed in the ancient times, some which have fallen into disuse and some continued even in modern times.

There are various punishments prescribed under Indian Penal Code . These are the Death Sentence Imprisonment for Life, Imprisonment, Solitary Confinement , Fine etc.

**Purpose of Punishment**

 There are divergent views regarding what is the need for punishment. As we all know, Crime and Punishment are inextricably linked. A criminal by his act causes loss to and endangers society. Some authorities point to vengeance as a reason. Some regard it as necessary to prevent crime and protect society .Several see it as a means to eliminate threats to the prevailing social order. Others view it as a means to an end- the reclamation of the criminal.

In Conclusion one can say that different scholars have tried to provide a comprehensive definition for punishment. Punishment is an expression of disapproval of wrongful acts. Kinds of punishment may vary from society to society. Punishment may be administered for various purposes but it is generally to encourage law –abiding behaviour.