

## **Quadrant II – Transcript and Related Materials**

**Programme: Bachelor of Arts (First Year)**

**Subject: Sociology**

**Course Code: SOG 101**

**Course Title: Crime and Society**

**Unit: 3**

**Module Name: Deterrent Theory of Punishment**

**Module No: 10**

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### **Notes**

#### **DETERRENT THEORY OF PUNISHMENT**

##### **Introduction to social control and punishment**

- Regulation of the behaviour of individuals in the society is necessary for maintaining social order & stability.
- Social control varies from one society to another & from time to time.
- Most of the individuals conform to rules & norms.
- Violation of the law of the land is considered as a crime & for which there is prescribed punishment.

##### **Meaning of punishment**

- Punishment involves the intentional imposition of some deprivation or suffering on individuals against their will.
- The purpose of any punishment is to neutralise the effect of the wrongful act of the offender.

- Inflicting pain on an offender who has caused or committed a crime.
- Coercive & inflicted in the name of the state, i.e., it is authorised.
- Involves rules which are violated & for which there is punishment.

### **Meaning of Deterrence**

- To deter means to ‘stop’ or to ‘discourage’. The deterrence theory suggests that punishment is awarded to stop crime.
- The key factor can be said to be fear. The state aims at deterring crime by creating fear, the objective is to set an example for the individuals by punishing the criminal.
- “The end of punishment, therefore, is to prevent the criminal from doing further injury to society, & to prevent others from committing the like offence”.

### **History of the idea of ‘deterrence’ as punishment**

- The concept of deterrence theory can be traced back to the works of Social Contract thinkers – Thomas Hobbes, Cesare Beccaria & Jeremy Bentham.
  - **1) Hobbes** talked about the deterrence theory in context to his proposed theory of social contract, he stated that individuals are punished for violating the *social contract* & deterrence is the reason for it, as it strikes a balance to the agreement made.
  - **2) Cesare Beccaria** was of the view that the proportion of the crime & punishment should be equal for it to have a deterrent value.
  - **3) Bentham** was of similar view as Beccaria, he did not believe in excessive punishment as a method of deterrence.
- This theory further evolved during the period of the Cold War & during the 1970s when academicians used the theory as a means to solve crime rather than as an explanation.

### **Deterrent theory of punishment**

- During the days of imperialism, the person found to have committed a crime was tried in the presence of the public.
- The Britishers practiced punishment as a deterrence. If the criminal is left unpunished, others may take a clue from this & the numbers of crime may increase in society which will lead to social disorganisation.

- They supported death penalty & corporal punishment to the criminals so that it would serve as a caution to others.

### **Sociological school of jurisprudence**

- ❑ The theory of deterrence is linked to the sociological school of jurisprudence & establishes a relationship between the society & law.
- ❑ It states law to be a social phenomenon with a direct or indirect connection to society.

### **Purpose of the deterrent theory of punishment**

- 1) To restrain the wrong doer from repeatedly indulging in crime and to set an example to others to deter & prevent them from committing a crime or violating laws. Intention is to check crimes in society.
- 2) Just as a wild animal cannot be allowed to move at will in the city streets, similarly there is a danger that the criminal may again commit crime & so the penalty of law is imposed upon him & his liberty is restrained. This is done because he is assumed to be a danger to other members of society.
- 3) Deterrent punishment may also aim at frightening others from violating law where crime is committed in a planned way & not under impulse or emotion, or where murder is deliberately planned with a motive of vengeance, the extreme penalty works as a deterrent effect.
- 4) This theory suggests that the punishment which is awarded is to deter (stop) people from committing crimes.

### **General and Specific Deterrence**

**General deterrence** implies deterrence in context of the public, who have not yet indulged in criminal activities. It serves as an example of the consequences of committing crime by creation of fear. **Example:** Capital punishment & corporal punishment.

**Specific deterrence** is deterrence for the specific individuals who have committed the crime. It stops criminals from committing any prospective crimes.

- The **proportionality between pain & pleasure** must be maintained for effective punishment.

### **Components**

**a. Severity:** implies the degree of punishment. “If the punishment is too severe, it may stop individuals from committing crimes”.

- Beccaria was of the view that excessive severity of punishment will in contrast to the above statement, lead to an increase in crime. Excessively severe punishments are unjust.

Also, if the punishments are not severe enough, they will not serve the purpose of deterring crime.

**b. Certainty:** Punishment should exist whenever a crime is committed.

- Individuals will deter from committing crimes if they know their criminal acts will be punished appropriately.

**c. Celerity:** Punishment for the crime must be given in a swift manner.

- The faster the punishment is awarded & imposed, the more effect it has in deterring crime.

Hence, the Classical theory suggests - punishments should be swift, certain & proportionate to the crime; so as to deter individuals from violating the law.

### **Severity of punishment**

If the punishment for the crime committed is extremely severe or more severe than what is required, two situations may occur.

1. Deterrence may be successful in inculcating fear by the way of extremely severe punishment.
2. Deterrence theory fails due to extremely severe punishment as this may will lead to an increase in crime due to frustration with the system.

### **Proportionality between crime and punishment**

There has to exist a proportionality between the crime committed & the punishment awarded, which implies that the punishment awarded should not be less or more than the degree of crime.

The purpose of sentencing is that if a particular crime against the society is a heinous crime, then the theory deterrence becomes more relevant as a rationale for punishing the offender.

It becomes the duty of the State to punish the offender when the offence is against the society.

## **Corporal and capital punishment**

- In extreme cases, imprisonment alone may not be sufficient for the protection of society. So, it is considered necessary to terminate a criminal's life.
- The more severe the punishment to the criminal, the better it is to serve as a warning to other members in the society.
- If it is found that a criminal is indeed a dangerous or that he is a man of uncontrollable violence or homicidal tendencies or that he habitually commits serious crime or that he has a savage nature and so on.
- So, it is reasonably considered necessary to terminate a criminal's life.
- When it comes to sentencing a person for committing a heinous crime, the deterrence theory is more relevant & in such cases mercy, compassion & forgiveness becomes secondary.
- **Examples:** terrorism, bank or highway robberies & murders committed & the body is cut into pieces either to get rid of the person or for money.

## **Arguments in support of the deterrent theory**

- If a criminal is not punished, the public would feel frustrated & its obedience of the law would appear meaningless.
- Helps to unify society against crime & also maintain respect for law.
- If law-violators & law-conformists receive the same treatment, there would be no reason to abide by the law.
- Thus, punishment will make people rally in support of law enforcement, encourage them in their fight against crime & help the authorities to maintain the public sense of justice.

## **Conclusion**

- ❑ The deterrence theory believes individuals in a society to be rational enough to inculcate the example of punishment to a criminal & not commit the same crime.
- ❑ To deter the individuals from committing prospective crimes, punishments are awarded to the criminals & justice is provided to the victims.
- ❑ However, corporal punishment is on the decrease and trial in the presence of public has almost disappeared.