

## **Punishment: The effects of society**

<sup>1</sup>M Tejashwini, <sup>2</sup>GS Venumadhava

<sup>1</sup> Research Scholar, Department of Studies in Criminology & Forensic Science, Karnatak University, Dharwad, Karnataka, India

<sup>2</sup> Assistant Professor & co-coordinator I/c, Department of Studies in Criminology & Forensic Science, Karnatak University, Dharwad, Karnataka, India

### **Abstract**

Long considered an effective, and even necessary, means of socializing punishment has been revealed to be a predictor of a wide range of negative development outcomes. Punishment is associated with increased child aggression, antisocial behavior, lower intellectual achievement, poorer quality of parent-child relationships, mental health problems such as depression, and diminished moral internalization. The evidence about whether punishment results in short-term compliance is mixed, with some studies showing effectiveness in achieving this and others not. Short-term compliance can, however, be achieved as effectively without using punishment. Punishment has negative effects on child outcomes, especially if it is harsh, regardless of culture. When punishment use is normative in a culture, the effects are slightly less negative. Whether it is really doing more good than harm to the concerned individuals remain a topic of discussion and criticism in society today.

**Keywords:** Crime, law, justice, capital punishment, reform, deterrence, retribution, rehabilitation

### **Introduction**

“You will be punished if you do something wrong.” Without any doubt, we can say that everybody knows the essence of such a message. People refrain from doing what is wrong because of the fear of punishment.

Punishment comes in different forms. This could be punishment from parents on their children when they misbehave or do something inappropriate, or it could be the judicial system punishing a person for an offense against the law. The concept of legal punishment is quite different though. The state imposes legal punishment to criminals in different forms and severity with different purposes. It can be a temporary form of punishment such as imprisonment or imposing fines, or as lengthy as a lifelong imprisonment. At the worst, punishment can be up to the extent of permanently removing the criminal from the society by execution. Though believed to reduce crime in society, punishment is generally seen as quite coercive and burdensome.

### **History of Punishment**

Punishment is known to co-exist with history, without any period which prohibited punishment to the criminals. Since the beginning of the implementation of punishment in society, the justification and concept of punishment has shifted through the years. Early punishments were known to be more brutal than the current punishments. Punishment was used to be perceived as a way to reform and rehabilitate offenders but the modernization of civilization made some deviation from that thought.

Many ways of punishments existed including slavery, imprisonment, and capital punishment - as the most controversial one. Many nations and cultures have made official laws to protect their citizens from crime. Over the years, these laws have been in force, in order to keep their society from becoming complete anarchy. Different forms of

punishments have been used to deter would-be criminals. However, some citizens still tend to break the laws.

These days, all countries have a justice system and a prison for locking up their threats to society. Many countries can sentence someone to death for an extreme form of punishment. Retribution, deterrence, rehabilitation, and societal protection are the common forms of punishment used today.

According to an excerpt in the Science Encyclopedia (2009) “For the consequentiality, retributism is nothing more than a compromise with revenge, and no punishment can be legitimated without knowing that it will bring forth good effects.”

Even in a just society, not every person will comply with the law, and not everyone who does comply will do so out of respect for the rights of others, that is, out of recognition of others as persons with rights deserving mutual respect. Here we encounter in another form the fundamental rights-protecting principle on which the system of punishment is built: It is better to increase law compliance by liability to sanctions of those who would otherwise violate the law than it is to permit them to act on their perverse autonomy without any socially imposed cost to themselves, since that would require us to tolerate the victimization of the innocent. Such toleration would be at odds with the moral urgency of protecting rights. For this reason, rational self-interested persons acting behind a veil of ignorance would choose to impose on themselves and on others a liability to criminal sanctions for certain law violations.

### **Forms of Punishment**

The United States is known to be one of the countries that are in practice of an “eye for an eye” and “tooth for a tooth” type of punishment. In the colonial era the punishment of hot tar and feathers was not uncommon. This was considered to be a

punishment that was quite effective even though it was barbaric. (Colonial America Tarring and Feathering) Punishment in the form of the death penalty is considered retributive and has been known to exist throughout American history. Crime rates records within the country have not decreased in any significant manner though.

Among the various forms of punishments given to the individuals found guilty for various crimes, the most common ones include imprisonment, probation, community service, and fines. Though not as common as these methods of punishments, capital punishment is also in practice in several countries around the world.

#### **a) Imprisonment**

Imprisonment or incarceration, wherein the person is put in jail as a lawful punishment, is perhaps one of the most common forms of punishment in the world. Retribution, i.e. the act of correcting a person for his misconduct, is the main purpose of imprisonment. But this also serves other purposes like deterrence, incapacitation, and rehabilitation. The term, or the period, that the convict has to spend in the prison depends on several factors, most prominent ones being the area of jurisdiction and severity of the crime. Even though it is the most common form of punishment, even imprisonment has been subjected to intense criticism as a result of incidents wherein people falsely accused of a crime had to spend life term in prison.

#### **b) Probation**

Yet another widely used form of punishment, probation is most often used in lieu of imprisonment. A person is sentenced to probation for misdemeanors as well as a felony of a lesser degree. In some cases the convict may have to spend a part of his sentence in the prison. The person on probation is supposed to abide by the probation conditions set by the court. For instance, he is restricted from possessing weapons or moving out of the area of jurisdiction. The probation officer is assigned the task to ensure that the person follows these probation rules properly. If required, the court can change its orders, and send the convict back to the prison.

#### **c) Fines and Restitution**

Even though both these forms of punishment involve paying a particular sum of money, there is a difference between the two. Fine is supposed to be paid by the convict to the government, while restitution is supposed to be paid by the convict as compensation to the affected party. This form of punishment is generally given when the judge is convinced that the convict is not a threat to the society. In case of a fine, it can either be given individually or along with a specific period of imprisonment. If required, the court can also confiscate the property of the convict, especially when the crime is serious and the person convicted is in no position of paying the fine.

#### **d) Community Service**

A form of alternative sentencing, community service requires the convict to work for the society, either partly or entirely, in lieu of the sanction or fine imposed on him. Generally, a person is sentenced to community service for varying degrees of misdemeanor, or for a non-violent felony, though in rare cases. The person may have to get involved in a specific

activity related to the crime. For instance, a person held for possession of banned substance may have to join a group working to create awareness about the hazards of the substance abuse. Such form of punishment is most often given to famous people with significant public appearance, as the law believes that allowing a celebrity to do community service will result in some good to the society, as opposed to imprisoning him.

#### **e) Capital Punishment**

Capital punishment, also referred to as the death penalty, is one of the most severe forms of punishment. A person may be sentenced to death penalty for crimes like murder, homicide, rape, etc., depending on the provisions in the law of the land. The most important objectives of capital punishment are deterrence - conveying a message that such acts will not be tolerated in the society, and incapacitation - making sure that the person doesn't repeat such heinous action/s. The different methods used to carry out death penalty executions today include hanging, electrocution, lethal injection, and firing squad. Inclusion of capital punishment as a part of the judicial process has been a subject of debate since quite some time now. While some argue that it is absolutely immoral act on the part of the system, others feel it is necessary to establish a crime free society.

These were the different forms of punishment used widely in the world. Basically, punishment is given to an individual to make him repent, ensure justice to the victim, and set an example for the rest of the society. If giving a punishment serves either one or all of these purposes, then sentencing the criminals to these forms of punishment, including capital punishment, is a necessity.

#### **Retribution**

Retribution is defined as the moral vengeance to satisfy a society to make the offender suffer as much as the suffering caused. This type of justification for punishment is the oldest of the four ways. This type of punishment was designed to satisfy the people's need for a type of closure that satisfies the moral of society. In principle, punishment should be equal in severity to the deviance itself. It all comes down to equal justice.

If retribution had been effective the records should have shown some sort of decline in criminal history shouldn't it? This is one argument that exists on retribution as punishment. Retributive punishment in the form of death penalty is a kind of punishment that has been known to exist and accepted throughout the American history since the historic ancient society. The crime rates records within the country have not decreased significantly throughout many years though. Retribution is a punishment designed to provide satisfaction of the morals of the society. Retribution follows a principle of equality of punishment to the severity of the wrongdoings.

#### **Deterrence**

Deterrence is the attempt to discourage crime by punishment. This idea came about in the eighteenth century. Deterrence is a type of punishment that relies upon examples of punishment made known to everyone ahead of time before they choose to break the law. This concept is based on idea that citizens will not break the law if they think that the pain of the punishment will outweigh the pleasure of the crime. Every day on the way

to work you have a choice to leave early reaching your destination without breaking the law by speeding. If you are late, you might choose to speed knowing the consequences of speeding ahead of time. A speeding ticket may be a worthy risk to someone who is late to work for the third day in a row. Murder on the other hand may not be a worthy risk since the pain of Murder's punishment is much worse than a ticket to most citizens.

Deterrence attempts to discourage crime by bringing into the awareness of the public as to what kind of punishment to face as the consequences of any action done which violates the law. These punishments are made known ahead of time and it is meant to instill fear in individuals to deter them from doing wrong. Studies show that an effect of deterrence lowered some crime rates, but seem to lack the credibility on how the studies were conducted and thus far inconclusive, (Discussion of Recent Deterrence Studies). According to Jeffrey Fagan (2005), "These new studies are fraught with technical and conceptual errors: inappropriate methods of statistical analysis, failures to consider all the relevant factors that drive murder rates, missing data on key variables in key states, the tyranny of a few outlier states and years, and the absence of any direct test of deterrence."

### **Rehabilitation**

Next is justification for punishment is through rehabilitation. This program was designed to reform the offender to prevent later offenses. This idea rose among social sciences in the nineteenth century that proved to be an effective solution. If you can control the environment that a criminal or lawbreaker of some sort lives in, you can deviate from his normal society. Reformatories or houses of correction provided settings where people could learn proper behavior. One common example of how rehabilitation is used today is when a drunk driver is convicted he may be sentenced to Alcoholics Anonymous meetings rather than jail time. Once the citizen has completed rehab, through the proper reformatory chosen for them, they can choose to stay on the same path of freedom contributing to society or go back to their old ways. Rehabilitation is the most forgiving and positive punishment of the four justifications discussed because it promises the offender a second chance at life. Unlike retribution, which demands that the punishment fit the crime, rehabilitation tailors treatment to each offender.

Rehabilitation aims to actually provide a sort of treatment to offenders. This punishment extended help to some offenders but seems to have no effect to some. The magnitude at which rehabilitation helps deter crime has yet to be determined. According to the U.S. Department of Justice records show that the total corrections expenditure for the fiscal year of 2001 was 29.5 billion dollars. This is a great effect in state financial matters, although some may say it is ineffective as a form of punishment.

### **Societal Protection**

The final option for a justification for punishment is the term societal protection. This favors the society by rendering the offender incapable of further offenses temporarily through imprisonment or permanently by execution. This option of punishment differs from rehabilitation in that no special treatment is given to the offender in hopes to change him. His surrounding is a set area in a cell or execution chamber that many have used before him which protects society. This

method can help be helpful to the offender giving the offender a chance to reform and a promised second chance. The United States currently incarcerates close to 2.2 million offenders in jail. As "in the Times explains, the crime rate has gone down in recent years, but the number of offenders locked up across the country has gone up, tripling since 1980.

Societal protection does offer some help in today's society by segregating the offenders from the general public. This incapacitates the offenders from doing further harm by temporarily imprisoning them or permanently by execution. We know what imprisonment means. It is similar to caging a beast to avoid inflicting subsequent harm to society. The imprisonment given to people segregates them from the outside world. In ways this is a form of protection from society, but what effect does it have on the person who is imprisoned? Some offenders are imprisoned for years and then set free; but at what cost? There are ways that this is very bad. The offender is freed after 10 or 15 years of imprisonment and unable to find gainful employment and therefore commits another offense to try to "make ends meet" in their own world.

### **Dual Effects of Punishment**

The form of punishment that is appropriate for the crime is never easy to come upon. Punishment actually causes dual effects- both good and bad. The good effects can be perceived as the person being able to realize his wrongdoings and will learn his lessons that committing a crime does not do any good. This may be good to the society but has significant effects to the offender and the family left behind.

Being behind the bars has many bad effects to the individual, apart from tainting a criminal's reputation, his incapacitated ability to continue his normal life may mean a great loss. Some opinion says imprisonment itself does really create significant fear to the citizens. Execution has similar effects in some ways. Apart from financial loss at the start of the crime trial, any criminal on a death row, can suffer from great loss leaving tremendous and traumatic effects to the family left behind. Generally, the deterrent effects of policing and punishment are hard to measure.

The most pain that imprisonment causes is being away from family and friends. This causes the person to introvert and sometimes not be able to function at what society considers being a normal capacity when released if there is a release of the offender. If the offender is the head of the household this has a great effect on the dependents of that household as well. These dependents might consider being offenders themselves to generate some form of income for the household. Society today is money driven and the most money in my opinion is made by doing something that is illegal.

The length of imprisonment prevents crime through incapacitation rather than deterrence and such raises arguable questions about the effect of policing and punishments. The length of imprisonment may prevent one person in the family from being an offender, but what prevents the others from doing so?

In the United States punishment has been enforced since the early colonial period, and the victimized crime rates have decreased from 1973 to 2006. (Bureau of Justice Statistics) Whether this information is accurate in actually deterring would be offenders or that there are offenders that have yet to be caught doing the offense remains to be seen. Despite strong implementation of punishment which even increased in its

severity, crime has not significantly declined. The records of the United States crime rates from 1960 to 2006 did not show significant reduction of crime rates. As the general population increase, so does the total crime committed.

### Financial Burdens of Punishment

The greatest impact of the punishments lies on the financial burden of the state. We can think that owing to the yearly population increase, the total number of crime is following a regular pattern. Perhaps we can say that crime is but a normal process in every society. The cost of punishments has risen and continues to rise every year. Whether there being more offenders or just the cost of inflation is the reason is unknown, as these costs are not publicly displayed.

Some studies have provided promising results as to the forms of punishment provided, but others have not. It seems the most effective form of punishment is that of the death penalty. This is the greatest deterrent of more crime being committed by the offender.

We as a society know that punishment is to protect the society as a whole. However, every individual in the world has their own standards of living and their own principles. We realize that there are many reasons why crime exists and are continuously looking for solutions for the root of these crimes. Poverty is one such root that society has labeled as linked to crime.

The changing level of morality of the society may have some impacts on this but how it is decreasing crime still needs lots of studies. The greatest impacts of punishments lie on the financial burdens pressed on the state. The cost of punishments had practically become expensive and the price keeps on going up.

### Conclusion

So what exactly causes crime, and how do we as individuals in a crime ridden society, help those who are more likely to commit crimes change their way of thinking so as not to commit those crimes? American society today still maintains that criminals must be punished even though crime still exists, wouldn't it be easier to resolve the issues causing the crimes instead of spending money on the crimes itself.

Society as a whole is complex, but that does not mean that we cannot stand together to help those less fortunate and those who are in trouble to help make society better as a whole.

We know for sure that punishment is one of the pillars of justice imposed to protect the society. However, the world we live in is quite complicated where people try to live on their standards and principles which differ in every individual. There are many reasons why crimes persist to exist.

Giving solution to the roots of the crime is perhaps the best strategy to prevent or at least minimize crimes. For example poverty, is a well-established root of a crime. (Holzer, H., & Schanzenbach, D., 2007) If there is a great solution to poverty, perhaps crime will finally find some resolution. We live in a society with complex people. As long as there is no universal unity, crime will prevail no matter what known punishments are there waiting for the criminals.

### Reference

1. Abhijit Naik
2. <http://www.buzzle.com/articles/forms-of-punishment.html>

3. Colonial America Tarring and Feathering Oregon Coast Magazine Online
4. <http://www.u-s-history.com/pages/h569.html>
5. Crime and Victim Statistics
6. <http://www.ojp.usdoj.gov/bjs/cvict.htm>
7. Holzer H, Schanzenbach D. *et al.* The economic costs of poverty in the United States: Subsequent effects of children growing up poor
8. <http://www.irp.wisc.edu/publications/dps/pdfs/dp132707.pdf>
9. James J. Stephan State Prison Expenditures. 2001.
10. <http://www.ojp.usdoj.gov/bjs/pub/pdf/spe01.pdf>
11. Jeffrey Fagan "Deterrence and the Death Penalty: A Critical Review of New Evidence" <http://www.deathpenaltyinfo.org/FaganTestimony.pdf>
12. Punishment, Retribution and Consequentialism
13. <http://science.jrank.org/pages/10920/Punishment-Retribution-Consequentialism.html>
14. Richard S Frase. Criminal Punishments the Oxford Companion to American Law. Kermit L. Hall, ed. Oxford University Press. Oxford Reference Online. Oxford University Press Apollo Group. 2002.
15. <http://www.oxfordreference.com/views/ENTRY.html?subview=Main&entry=t122.e0220>
16. Stacy Vogel "Does poverty = crime? Scholars disagree"
17. <http://gazettextra.com/news/2008/aug/24/does-poverty-crime-scholars-disagree/>
18. United States crime rates 1960 – 2006. Disaster Center Online:
19. <http://www.disastercenter.com/crime/uscrime.htm>