



## **Punishment for Crimes: An instrument of Social Change**

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**Introduction**

Punishment is a social custom and institutions are established to award punishment after following criminal justice process, which insists that the offender must be guilty and the institution must have the authority to punish. It is a method of social control where an individual is free to act but within the legal framework as sanctioned.

In a society, every individual is expected to act in a certain standard of behavior and its deviation attaches penalties. The type of punishment inflicted is inspired from various schools of thought justifying punishment.

The legal system is a sanctioned moral code of conduct which is authorized by the lawmakers of a particular society. Government prohibits taking life, liberty or property of others and specifies the punishments, threatens those who break the law. The fear of punishment prevents people from doing wrongs against each other and state(s). If penalization is not executed in an effective manner, its significance in maintenance of anarchy will become questionable. Punishment must deter others from doing wrongs in prospective future as well.

Punishment must have transformational effect on the offender. Punishment must make the offender realize the severity of crime committed by him and must repent and atone for it. Offender is punished not only to suffer for the wrong or damage he has caused on the victim but also realizes the pain he has caused due to the unlawful act. It must be a two way process of making the offender bear the consequences for the crime committed by him and also the victim who have suffered the harm must be reinstated in the status as he was before the harm was inflicted on him. It should be a two way process where the offender should suffer rigorous physical pain and victim's recouping should also be ensured by the justice delivery system. In the recent past, punishment and public opinion concerning it has changed drastically due to dynamism in social values and sentiments of the people.

The research topic titled as “Punishment for Crimes : An instrument of Social Change” is a topic of essence keeping in view the impact of punishment awarded for a particular crime as it

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also conveys a message among the members of a particular society to deter from engaging in similar crimes or do not instill fear to commit crimes in future. Present scenario and administration of justice which by now is dominated by deterrent and reformatory theories and on occasions with the undercurrent of retribution and/or prevention. However while awarding the punishment, courts in India have evolved the principle of proportionality<sup>2</sup> which is emerging as a trend in criminal jurisprudence. There are punishments which have been awarded in the past but with the passage of time and emergence of modern civilization have gone into oblivion. The punishments were extermination, public rebuke, lashing though considered to be punitive in nature. But there can be punishments which do not cause any bodily pain to an accused or affect his freedom of movement but to a limited extent like extermination, admonishing and restoration of wrong by compensation or otherwise. The topic has its objective by entering into punishments other than those prescribed in the codes. The reformations and rehabilitations have already assumed the space in criminology but still are considered to be so effective keeping view the increasing crime rate in the referred target group. The research topic is dealt on doctrinal methodology based on primary and secondary source of data. After analysis of one data it is corroborated with the other for arriving at certainty. For the research topic, the emerging questions which strikes the mind and on the premise of which the topic is being dealt are: i) whether the existing punitive punishments have resulted in prevention of the crime, ii) Do the reformation and rehabilitation yield desired results in the context of objectives framed in respective legislations, iii) Can there be non-punitive punishments beyond reformation or rehabilitation, iv) To what extent such punishments can be effective for maintenance of social order and decency v) Whether the non-corporal punishment in earlier statutes need to be brought back as part of administering criminal justice in India. Towards the aforesaid, there is a need for rethinking *vis a vis* to administration of criminal justice. Accordingly matter is being dealt by understanding the theories of punishments and existing punishments from criminology and victimology point of view.

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<sup>2</sup> Hazara Singh v. Raj Kumar and Ors. (2013) 9 SCC 516, State of Himachal Pradesh vs. Nirmala Devi,

**Impact of Punishments on Society**

Every cultured society aspires to attain and work towards the welfare goal for the whole community. One of the major factors to be ensured in any society is its safety from peers and also from outside factors. For the common good of all its residents, few 'grundnorms' are expected to be adopted by all. The legal policies have played an instrumental role in securing comfortable sustainability for all. Penalties have been executed for the wrongdoers to isolate him/her from the society to prevent the possibility of future harm and also to attain penance for the accused. A system of awarding punishments for various crimes also served the purpose of preventing future crime and deterring other members to take lessons from the sufferings of the accused.

Various schools of thought have propagated the idea of punishment, its impact and reasons for particular way of penalty. Societal impact of punishment is very significant in accessing the objectives of a particular penalty. Various social factors also affect the commission of crimes in a particular society such as the economic status of the offender, comfort of an individual in one's family life, employment, etc.

**Theories of Punishment**

Different authors have offered various theories of punishment but those can be broadly classified as non-utilitarian and utilitarian. What distinguishes these theories is their focus and goals: utilitarian theories are forward looking concerned with the future consequence of punishment; non-utilitarian theories are backward looking, interested in the past acts and mental states; and mixed theories are both forward and backward looking. Various theories of punishment provide different justifications for awarding punishment to the offender.

**Deterrent Theory:** This theory believes that punishment acts a deterrent for the offender, not to commit punitive crimes in future and also deters members of society in commission of such crimes further. By witnessing the sufferings of the offender, fear should be created in others to avoid such crimes by them.

No clear data on the effects of such punishment as deterrent is available to justify the objectives achieved by awarding such punishments and its impact on the members of society. The efficacy of deterrent effect of the punishment has been so far only successful in Islamic states where punishments for crimes are harsh. Disabling the offender to commit crimes in future is their main objective. Mutilation of limbs in case of theft, public beheading in case of murder, rape or other heinous crimes were punishments in line with this theory. Many other factors may also be responsible for fewer crimes in these countries as they are economically secure and religious injunctions. The only purpose of criminal law as whole cannot be just deterrence alone; other goals of punishment should also be considered.

**Preventive Theory:** The theory seeks to prevent the happening of future crimes in society by awarding such exemplary punitive course of action. Deterrent and preventive theories are very similar and may converge at various points of their objectives. Deterrent theory aims to inflict fear in the offender and the prospective public to avoid the commission of crime in future and in a way it also prevents future crimes.

**Retributive theory:** According to Hegel<sup>3</sup>, “punishment annuls the crime”. Punishment is a means to restore the social imbalance created by the offender. Immanuel Kant<sup>4</sup>, found the justification of punishment in retribution only. He emphasized the supremacy of legal justice delivery system by awarding proportional punishment for the crime committed by the offender.

This theory believes that after suffering pain, the offender achieves “atonement”. It should not be confused with revenge of the victim or society rather, it is way out for the offender to reconnect with society as many thinkers believe that after going through the process of suffering, offender is transformed and is washed off his sins.

**Reformatory Theory:** The proponents of this school of thought believe in the reformation of the offender and also its impact on the victim. They believe that a criminal is not born such but has

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<sup>3</sup> S. W. Dyde, *Hegel's Conception of Crime and Punishment*, Vol. 7, No. 1, THE PHILOSOPHICAL REVIEW, 62-71 (1898)

become a criminal due to its surrounding circumstances. The theory seeks to transform the accused by making him realize the gravity of pain he has caused to another human being and other people connected with the victim such as his direct family, peers and society as a whole. This theory is drastically different from other theories in the sense that its objective is to ameliorate the offender rather than taking vengeance on the accused, or making him suffer for the sin he had committed on the victim as well as other people connected with him. Non-punitive punishments are further extension of this school of thought although it is not yet prevalent in India.

Through non-punitive options in criminal law system, accused should be made to fit in the society as a civilized citizen. The prison should be removed and replaced by reformatory cells. The cause for the crime must be traced and efforts must be made for their removal from the life of the offender. Counseling and other infrastructural set ups must be established to help the accused become a better person so that he would not go back and commit same or similar crimes again. It has also been observed that prisons have become breeding grounds for serious crimes due to intermingling of criminals. Due to stigmatization of offender by the society, he enters withdrawal state as he perceives himself to be avoided by members of society and hence coherence with his peers criminals. In a social welfare state like ours, not all crimes should be treated with the same yardstick. It is suggested to make thorough study of criminals for achieving the purpose of welfare for all and eradicating crimes completely.

### **Punishments under Indian Law**

The basic criminal law in India being Indian Penal code which in section 53 prescribes different punishments like death penalty, imprisonment (imprisonment may be rigorous or simple), forfeiture of property and fine broadly. The references of these types of punishments are scattered across criminal law statutes in India, namely, IPC, CrPC, Indian Evidence Act, NDPS Act, to name a few.

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<sup>4</sup> IMMANUEL KANT, THE METAPHYSICAL ELEMENTS OF JUSTICE 102 (John Ladd trans., Bobbs-Merrill Co., Inc. 1965) (1797). See also IMMANUEL KANT, THE PHILOSOPHY OF LAW 198 (William Hastie trans., T. & T. Clark 1887) (1796)

Death penalty is perhaps the most controversial punitive action against the offender. Modern penologists and humanitarians have been long debating for and/or against the purpose of this sentence. Ripples have also been created in the judicial arena regarding the harsh and inhuman nature of such actions by the stakeholders of justice delivery system in the present welfare state. Various humanists, NGOs, criminologists and victimologists are demanding a critical analysis of its punitive approach where law authorizes to compromise life a human being. Capital punishment is the most brutal punitive actions sanctioned by state. The Indian legal system recommends this punishment in case of crimes related to the waging of war against the state (S.121,IPC), abetment of mutiny (S. 132, IPC), giving or fabricating false evidence leading to procurement of one's conviction for capital punishment (S. 194,IPC), murder (S. 194, IPC), abetment of suicide committed by a child or insane (S. 305, IPC), attempt to murder by life-convict, if hurt is caused (S. 307, IPC), kidnapping for ransom, etc. (S. 364-A, IPC) and dacoity with murder (S. 396, IPC). In case of aforesaid mentioned crimes, the court has been provided discretion to either grant life imprisonment or death penalty. If capital punishment is awarded to the culprit, court are required to record, 'special reason' for such decision why they chose to forgo the life imprisonment to the offender. Indian judicial system has developed the principle of "rarest of the rare" to award death penalty only in cases of special circumstances which must be exceptional in the landmark case of *Bachan Singh v. State of Punjab*<sup>5</sup>.

Imprisonment is of two types: i) simple and ii) rigorous. Simple imprisonment is awarded to less serious crimes where the accused have to reside in prison without being subjected to hard labor. He is provided normal meals and is also allowed to intermingle with peer inmates as per the respective prison rules. Acquaintance of prisoners are also allowed to meet him during the reasonable hours as prescribed by the prison rules whereas in rigorous imprisonment, prisoner have to perform hard labour as required by law apart form that all other conditions are similar as in a simple imprisonment. Due to reformatory inclination of the justice delivery system these days, various vocational training programmes are organized for honing professional skills which will help them to earn a livelihood so that they can have a normal life after the end of their prison term.

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<sup>5</sup> *Bachan Singh v. State of Punjab* (1980) 2 SCC 684

Imposition of fine was recommended for less serious crimes. Its implementation is mostly found in property crimes and minor offences like embezzlement, loitering, theft, non performance of traffic rules, etc. Fine is also inflicted along with imprisonment for certain crimes, sometime either of them is imposed or both. The court also has the discretion to order to compensate the victim along with the costs of prosecution in addition to the fine already mention in respective statutes. For short term punishments, fine is also used as an option by the courts. While deciding the quantum of fine, gravity of crime, its consequences on victim and society and financial status of the accused and his financial responsibilities towards his closely related family members must also be considered. Section 421, CrPC provides for realizing the fine levied on the accused. Court can attach the property of the accused of in case of his failure to pay fine or may draw fine money from the source of his income. Threat of imprisonment is also an effective measure to implement fine payment. Imposition of exorbitant fine amount on accused beyond his capacity will defeat the purpose of administration of justice.

Various criminologists have shown their concern on fine as a means to free the offender from the crime he committed. Fine is often discriminatory as a rich offender will be easily able to compensate than a poor offender who in case of failure to pay fine have to suffer imprisonment while the rich one would pay fine and may even continue to commit such crimes in future and be relieved because of his sound financial status. Thus the policy seems discriminatory, unfair, cruel.

#### Forfeiture of Property

Section 126 and 169, IPC provides for such punishment other than imprisonment with or without fine. The state is entitled to take away the property of the accused in exceptional cases.

Section 126, IPC provides that a person committing depredation on territories of power at peace with the Government of India shall be punished with imprisonment upto seven years and also fine and the property used for such crime shall be forfeited.

Section 169, IPC deals with such kinds of property which a public servant is not legally bound to purchase or bid and if he did so under his name or n the name of another person or jointly, punishment is imprisonment till two years or with fine or both and that property if purchased shall be confiscated.

In addition to aforesaid, there are different legislations especially after independence which carves out punishment for different acts and/or offences. Usually it has been seen that all the punishments fall in the nature of punishments provided in general law under penal code except in special circumstances for dealing in special acts due to change in technology and scientific development, a different sort of punishment can be traced.

### **Criminological & Victimological Aspects**

From the point of view of criminology, a criminal is to be treated in a humane way. Courts should arrive at the appropriate legal punishment considering the socio-political and other related factors which are responsible for the commission of crime by him but there have been least studies with respect to victim and restoring him to the appropriate place in the society where he was before being the victim of crime. There are societies which provide for compensation and/or blood money<sup>6</sup> to the family of the victim. According to Sutherland<sup>7</sup>, Criminology includes the scientific study of making laws, breaking laws, and reacting toward the breaking of laws. It is the development of general and verified principles and concerns with the knowledge about the crime, the legal process and treatment of offenders. The criminological studies focus on the etiology of crime and criminal characteristics. On the other hand, victimology is the study of the victim, including the offender and society. Victimology views crime, law, criminal and the victim from a socio structural perspective<sup>8</sup>.

The criminology is basically the study of criminal who commits a crime, his social behavior and also concentrates on the causes of such actions by him while victimology is concentrates on victim from the boldily, mental and social perspective etc. He being the victim without any fault needs appropriate treatment for which the social order ought to strive towards that. The present system of governance of late 80s has dealt with this aspect and has provided compensation to the

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<sup>6</sup> PROF J.K. MITTAL & DR M. VIJAYA, INDIAN LEGAL SYSTEM: PAST AND PRESENT 322 (New Era Law

Publications, 10<sup>TH</sup> ed. 2006).

<sup>7</sup> EDWIN H. SUTHERLAND & DONALD R. CRESSEY, PRINCIPLES OF CRIMINOLOGY 3 (Philadelphia:

Lippencott, 6th ed. 1960).

victim. Usually we find victimological aspects in motor accident claim cases but not from criminality aspect of the crime but as a social legislation to recompense for the loss caused due to negligent act of the opposite party<sup>9</sup> likewise there are other statutes which concentrate on the victim's fate and strive for restoring him to his position which he was being the victim of the crime.

### **Effectiveness of the Punishment**

The official crime data projects a worrisome picture of the safety of its citizens against the failure of the state machinery to curb and control crimes against its citizens. Considering the fact that many cases of crime still go unreported, the crimes such as murder, rape, kidnapping, abduction, property crimes, socio-economic crimes have witnessed a drastic increased from the previous decades. Our state claims of a welfare state which strongly strives to maintain social order but the data shows a faulty state of affair to attain safety of its citizens.

According to the National Crime Records Bureau of India<sup>10</sup>, the violent crimes have shown a sharp increase as compared to last decade whereas property, economic and other IPC crimes have shown a decrease. The rate of violent crimes was reported as 23.8 in 2000.

In 2007, 21 crimes were reported against women every hour. The rate of crime against women crimes per 100,000 female population – was 55.2 in 2016<sup>11</sup>, up from 41.7 in 2012.

Murder crimes have increases by 251.3% from 1953 to 2012, Rape cases have grown by 902.1 % from 1971-2012. Kidnapping abduction has reported 804.6% during the sad period. Robbery by 225.2% and 263.5%<sup>12</sup>.

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<sup>8</sup> ANN WOLBERT BURGESS, CHERYL REGEHR, ET.AL., VICTIMOLOGY THEORIES AND APPLICATIONS 5 (Jones and Bartlett Publishers, Sudbury, Massachusetts, 2010)

<sup>9</sup> Section 140-144, Chapter X, Motor Vehicles Act, 1988

<sup>10</sup> <http://mospi.nic.in/#>

<sup>11</sup> <http://ncrb.gov.in/StatPublications/CII/CII2016/pdfs/Crime%20Statistics%20-%202016.pdf>

<sup>12</sup> [http://mospi.nic.in/sites/default/files/Statistical\\_year\\_book\\_india\\_chapters/Crime-write%20up\\_0.pdf](http://mospi.nic.in/sites/default/files/Statistical_year_book_india_chapters/Crime-write%20up_0.pdf)

Green Peace Index (2017) in a study has placed India as the 4<sup>th</sup> most dangerous country for women safety in the world. According to the similar study by this organization (2018)<sup>13</sup>, India is ranked as 136<sup>th</sup> in the peaceful nation globally.

### **Stakeholders for actions towards social good (criminal, victim and society/state)**

Every crime has major impact on its victim but society at large too suffers its repercussions. For the maintenance of social good and trust in the government, the beholders of justice in any nation must ensure that all the stakeholders of crime must be compensated duly as per circumstances and the proportional harm suffered by them. Criminal justice system must involve the victim and culprit and also the society. The victim who wore the direct effect of crime must also be asked for the right penance expected by him. Criminal must suffer till the victim is satisfied and is convinced to forgive him.

Restitution of injury through payment of money must be quantified depending on the age, sex and status of the victim.

In most of the punishments mentioned in the criminal law minimum and maximum punishment are mention but the discretion to award the term of punishment is with the court which lacks any guidelines for sentencing. Punishments for many crimes are proving to be ineffective.

### **Non-punitive action & Justice Delivery**

The present society is keen in establishing itself as a welfare state. The states are formulating policies and norms for the society which are beneficial for the whole community, the approach in awarding punishments have also been given a fresh look. Punitive punishments have not been able to curb future crimes; if they would have India would not have had increasing number of heinous rape cases after the infamous Nirbhaya case. The culprits were awarded death penalty as an innocent girl was raped and murdered brutally. Various utilitarian theorists have also appreciated the reformatory theory which favours to explore non-punitive options in the criminal law system. The utilitarian theory emphasizes on the perceiving the future prospects of

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<sup>13</sup> <http://www.dw.com/downloads/44090830/global-peace-index-2018-2.pdf>

improvement of the culprit and hence expects that the stakeholders of justice delivery system should work on reinstating the culprit as a good human being as he was before the commission of crime. The emphasis should be given on eradication of circumstances which played an instrumental role in forcing the criminal take action in an illegal manner. Sutherland in his Principles of Criminology has prescribed two ways for crime reduction: treatment and prevention. Much attention is paid for treatment of offender but efforts of the legal stakeholders have not yet directed on prevention of future crimes. Most of the theories of punishments focus on the making the culprit suffer/treated for its crime. For prevention of crime, the state agencies have to plan the infrastructure and involve various other supporting agencies for the identification of prospective offenders and special programs must be formulated to transform such people from prospective offenders to prospective law abiding citizens.

Probation, education in prisons, parole supervision, permanent segregation of the offenders who are least reformed, general programme of crime prevention, vocational education and guidance, organized public recreation, child guidance clinics and visiting teachers, sterilization of criminals and transportation of criminals can prove to be effective instruments for crime prevention.

For the true redressal of justice, reformation in the process of awarding punitive punishment is required. The very stigma of “criminalization” needs to be reconsidered. All the offences should not be treated with the same yardstick of penal sanctions. In a social welfare society, categorization of the offences demanding varied response is evident for meeting the purpose of punishment and its aftermath. A criminal is tabooed as a culprit in his social circle although he has reformed and has become a law abiding citizen but the possibilities of his criminal repetition still instigates fear in people around him. Researcher is of the view that this very idea of “criminal stigmatization” should be removed and “decriminalization” of certain less heinous offences must be studied by reformatory agencies. Offences like non performance of traffic rules, non-payment of loan, eve-teasing, travelling without ticket on public vehicles, etc. do not deserve penal actions rather non-punitive approach should be adopted in proper justice redressal. Over criminalization of offences have also created unavoidable pressure on the justice delivery agencies. For petty crimes, people are imprisoned and serious offenders sometime go scot free due to non availability of agencies to attend such cases. Offences in India should be relooked and categorized afresh for deciding their approach and awarding punitive or non-punitive

punishment. Crimes can be categorized as “offences” and another category of “criminal misconduct offences” or “public welfare offences” can be coined by the legislatures. The offences of serious nature should be dealt under traditional justice agencies whereas new set of awarding non-punitive offences agencies should come into existence with supportive agencies.

Sensitization of criminal, victim and society will also required robust team of criminologist for framing effective policies, physiologists for counseling of culprit and victim both, moreover, society’s inclination towards certain crimes can be analyzed too; legal reformers who can revamp a non-punitive approaching our present justice delivery approach will also play an instrumental role.

In a progressive society like ours, crimes have also changed with the changing scenario. With technological advancements, cyber crimes have also emerged; the very recent artificial intelligence has also merged with the modern society, so have its legal implications, surrogacy, and other means of human production also needs legal attention; human cloning is another form controversial gift of science for which law is still skeptical to recognize. If we go by the traditional methods of inflicting punishment to restore social order, punitive forms of punishments might not be able to achieve the very purpose of justice. In the pragmatic world, punishment is rarely the option. We must explore alternative options so that the offender and victim can be duly treated based on the ethos of achieving justice in the true sense. Legal reformers believe that a crime is not always caused due to the criminal or corrupt nature of the offender. The causes for the crime and other related factors must be examined thoroughly to reach at the most suitable punishment for the wrong. Punishment must be such which not only makes the offender realize and suffer for the wrong he committed but also include the legal directions by the courts to make things right for the victim for the harm he has suffered. The legal process of justice is carried out by the police and other related agencies but the victim who actually suffered is often neglected. The whole justice system must involve the victim of crime as his opinion should also be given weightage in awarding the punishment to the offender. The victim might prefer to be monetarily compensated by the offender rather than him being imprisoned because he will continue to suffer as the imprisonment might not impact him much. The true justice delivery may be different from the perspective of the victim. Punishment must also prevent future crimes. A rich offender may easily get away by paying fine but if community

service or other similar directions are issued by courts as punishment, it will have better guilt realization on the criminal. The monetary fine on many crimes is too low according the contemporary, a fresh analysis of such fines are also the need of hour. Law Commission of India has also recommended the increase in the fine value by fifty times.

### **Comparative study and analysis**

#### Norway

Many countries have changed their approach in awarding punishments for the crime committed by the criminal in a more humanistic way and have succeeded in drastically reducing crimes in their respective state. Norwegian model have being praised globally for such reformatory, non-punitive actions on their inmates of crime. A reformatory island is also made functional where criminals reside like any other resident with open small cells with prospects of freely intermingling with other inmates. Facilities for their recreation are also made. They can communicate with their families over phone; laptop without internet connection can be assessed by them. They are enrolled in professional skill courses also. The inmates are but confined on the island only till the tenure of their punishment. This reformatory policy of Norway has result in tremendous crime reduction.

According to the World Prison Brief data<sup>14</sup> of Institute of Criminal Policy Research, there are only 3,933 prisoners as on 1.9.2017 (National prison administration) while reflects the frequency of crimes in a society which is truly reformatory.

#### Germany and Netherland

The justice administrations in both these countries aspire to rehabilitate the offender and also make him ready to re-socialize after the completion of his punishment tenure. These countries provided a successful prison model which have not only reformed the criminals but have also reduced crime rate in their respective societies. The German Federal Constitutional Court stated that the protection of the public is not an “aim” of confinement in and of itself, but a “self

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<sup>14</sup> <http://www.prisonstudies.org/country/norway>

evident” task of any system of confinement- a task that is resolved best by an offender’s successful re-integration into society<sup>15</sup>.

Courts also try to implement the process of diversion where the offender can voluntarily pay for the wrong committed by him instead of going through the process of prosecution. Voluntary payment by the offender is known as transaction in their justice system and is one of the most preferred ways to avoid tedious process of court proceedings but it’s only applicable for less serious crimes. In 2004, 33 percent of cases were disposed of through a transaction<sup>16</sup>.

Both the countries are not in favour of long term sentencing to prison. Approximately 6 percent of offenders in Germany and 10 per cent of offenders in Netherland were sent to traditional prisons.<sup>17</sup>

The correctional approach centers on rehabilitation and re-socialization at individual, institutional and physical level. The prisoners are treated in a humane way. They are allowed to wear their own clothes instead of similar jail clothes to save them from stigmatized among peer inmates. Their personal belongings are also retained by them. Prisoners have freedom of movement within the unit or facility, access to self-catering facilities, and assist in organizing daily life in prison. Separate keys of their cells are allotted to each inmate.

### **Conclusion and Suggestions**

In conclusion it can be said and as opined by various jurists that law ought to have sanction for its compliance. In order to maintain a social order, the punishments act as medicine for curing the disease in the society and in individual as the case may be. The topic has been dealt in preceding sub headings with respect to the deviation of law and consequence there to in the form of punishment. The non-punitive actions emerged only as social legislations to protect the weaker like juvenile. The article deals with stakeholders like the offender, victim and the

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<sup>15</sup> KIRSTIN DRENKHAHN & MANUELA DUDECK, et al. ,LONG-TERM IMPRISONMENT AND HUMAN RIGHTS 180-197 (1<sup>st</sup> ed. 2014).

<sup>16</sup> A.M. VAN KALMTHOUT, F.B.A.M. HOFSTEE-VAN DER MEULEN, et al., FOREIGNERS IN EUROPEAN PRISONS 625-626 (2007).

<sup>17</sup> <https://www.prisonpolicy.org/scans/vera/european-american-prison-report-v3%20.pdf>

society/state. A study of punishments under Indian law and effectiveness of such punishment has been given proper place with causation for ineffectiveness of existing punishments keeping in view the increasing rate in crime from decade to decade for which statistics have already been provided. The research also deliberated upon the stakeholders for maintenance of social order towards peace and prosperity. Accordingly there is a need for study and revision of laws dealing with administration of justice especially with respect to dilution of sanction for deviations. It is suggested that a commission ought to be set up to relook the punishment and incorporate non-punitive punishments wherever found desirable instead of adopting severe and aggravated punishment which take long for their inflicting after adopting a comprehensive judicial process at various levels in India like subordinate courts, session courts, high court and finally supreme courts. This does not mean that in heinous crimes severe and aggravated punishment cannot be given. The offences under Indian law are met with punishments in the form of fine, forfeiture of property etc. under the title non-punitive nature of punishment which fall under the category unconcerned with bodily restrain or harm. The acts/omission under IPC and/or under any other law needs reclassification. The offences of minor nature can be classified as 'criminal misconduct' to be met with admonition, counseling or fine depending upon the circumstances of the case. For grave offences life imprisonment can be in some cases can substitute for extermination so as to keep the criminal away from the scene of crime. In this way the state need not to incur any expenses on his upkeep. The Norwegian model as discussed can be a guiding factor but that also burdens state as far as the monetary aspects are concerned and human deployment for the purpose. Accordingly, extermination from the place of crime or from the state/country needs to be considered. The fundamental of the justice delivery system shall adopt the Hull formula <sup>18</sup>whereby justice ought to be prompt, effective and adequate which can happen when for some of the offences a non-punitive approach is adopted. If this happens, the saying like 'when begin is half done' can be achieved for the betterment and towards effective criminal administration of justice.

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<sup>18</sup> The requirement of "prompt, adequate, and effective" compensation has to be known as the "Hull Rule," in reference to this statement by Secretary of State Hull.