

Course – LL.B sem 4
Penology (Unit- 3.2)
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Types of punishment

PUNISHMENT SEC 53-75

- **Punishment.-** The punishments to which offenders are liable under the provisions of this Code are-
- First.- Death; Sec 121, 132, 194, 302, 305, 396, 307
- Secondly.- Imprisonment – a. Rigorous (194, 449, 168, 169, 172-174 175-176 & 187 178-180, 188 223, 225A 228, 291, 341, 500, 501, 502, 509, 510n& Simple (Max 14yrs Minimum 24 hours Sec 510 397 398
- Fifthly.- Forfeiture of property – 61&62 126,127 and 169
- Sixthly.- Fine. 137, 154, 155, 171G-H-I 278, 283, 290, 290A

- **54. Commutation of sentence of death.-** In every case in which sentence of death shall have been passed, may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.
- **55. Commutation of sentence of imprisonment for life.-** In every case in which sentence of imprisonment for life shall have been passed may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

KINDS OF PUNISHMENT²⁹

- The following kinds of punishment are discussed below, namely,-
 1. Capital punishment
 2. Corporal punishment
 3. Imprisonment
 4. Solitary confinement
 5. Indeterminate sentence
 6. Fine.

CAPITAL PUNISHMENT

- In the history of punishments, capital punishment has always occupied a very important place. In ancient times, and even in the middle ages, sentencing offenders to death was a very common kind of punishment.
- Even what might be considered as minor offences in modern criminal law, attracted the death penalty in those days.
- In England, there was a time when there were as many as 200 felonies for which the punishment was death. Even the offence of theft of property would attract the penalty of death.
- Till the middle of the seventeenth century in England, even the penalty for the offence of forgery was death.
- Then there arose a movement in the 18th century, which raised its voice of protest against the inhumanity of punishment.

CASE ANALYSIS

- There have been many arguments for and against this kind of punishment.

State of U.P. V. M.K. Anthony, A.I.R. 1985 S.C. 48


- In a case before the Supreme Court, they accused killed his bedridden wife, as he could not provide the money for her operation. He also killed his two children, as there would be no one to care for them after the mother. However, the crime was committed out of poverty, and not for just, vengeance or gain.
- In the circumstances, the Supreme Court held that life imprisonment, and not capital punishment, was the appropriate sentence

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 impossible for some offences under the Indian Penal Code is constitutionally valid 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. The voice of disagreement came from justice Bhagwati, who delivered a separate decision to the effect that section 302 of the Code is void, in so far as it provides for imposition of a death penalty (for murder) as an alternative to life imprisonment.



VASANT PAWAR V. STATE OF MAHARASHTRA (1980 SUPP. S.C.C. 194)

The Supreme Court has taken a stern view of recent "dowry deaths" and "wife-burning tragedies", and has refused to commute sentences imposed on such "murders" by lower Courts.

- A reference may be made to yet another decision of the Supreme Court in a wife-burning tragedy which took place in Delhi (State V. Laxman Kumar & others),

Corporal punishment includes modulation, flogging (or beating) 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 up to the Middle Ages, beating was one of the commonest form of punishment.

- The main object of this kind of punishment is deterrence. It has been long ago realized that this kind of punishment is not only inhuman, but also ineffective.

IMPRISONMENT

- 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.

SOLITAY CONFINEMENT

- Solitary confinement is an aggravated kind of imprisonment. This kind of punishment exploits fully the sociable nature of man, and by denying him the society of his fellow beings, it seeks to inflict pain on him.
- 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

SEC 73 & 74

- **73. Solitary confinement.**- Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement of any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say
 - a time not exceeding one month if the term of imprisonment shall not exceed six months;
 - a time not exceeding two months if the term of imprisonment shall exceed six months and 1[shall not exceed one] year.
 - A time not exceeding three months if the term of imprisonment shall exceed one year.

Sec 74 Limit of solitary confinement.-

In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

FINE – SEC 137, 154, 155, 156, 171G, H, I 278, 283, 290, 294A

Some criminologists are of the opinion that the punishment of fine, in addition to serving its deterrent object, also serves three more purposes.

Firstly, it may help to support the prisoners;

Secondly, it might provide expenses for the prosecution of the prisoners,

Thirdly, it may be used for compensating the aggrieved party.

64. Sentence of imprisonment for non-payment of fine.-

In every case, of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without

imprisonment, and in every case of an offence punishable with fine only , in which the offender is sentenced to a fine,

- **65. Limit to imprisonment for non-payment of fine.-** The term for which the court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.
- **66. Description of imprisonment for non-payment of fine.-** The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

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- **67. Imprisonment for non-payment of fine, when offence punishable with fine only.-** for any term not exceeding two months when the amount of the shall not exceed fifty rupees,
 - for any term not exceeding four months when the amount shall not exceed one hundred rupees,
 - for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six month in any other case.

INDETERMINATE SENTENCE

- Another kind of imprisonment, which may serve the reformatory purpose to a greater extent, and which is to-day extensively used in the United States, is the method of awarding an indeterminate sentence.
- In this case, the accused is not sentenced to imprisonment for any fixed period. The period is left indeterminate at the time of the award, and when the accused shows improvement, the sentence may be terminated.

Thank you !!!



