



A significant study of human behaviour in contemporary era in context of crimes and punishments

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Abstract

This paper explores the philosophical and psychological trajectory of the concept of punishment in India. It explores that while punishment originated as a moral necessity that was primarily rooted in the ancient concepts of Jurisprudence and making a shift towards a reformative model in India, However the contemporary Indian landscape reveals a psychological shift where the “reformative” intent is often undermined by a “carefree” criminal psychology that exploits systematic delays and legal technicalities. By analysing historical roots and Morden case laws, this paper argues that the dilution of moral gravity in punishment has led to a perception of the law as a set of rules to be bypassed rather than a standard to be upheld.

Keywords: Punishment, criminal psychology, reformative justice, deterrence, retributive theory, judicial delay, Indian Criminal Justice System

Introduction

Over the years, we have been studying about the different theories about the punishments and the rationality behind granting justice to the aggrieved persons or may we say the penning down some valid determination by the Hon'ble Judges of our Hon'ble Courts provides the balance in the Society. The analogy and the hardcore idea of providing justice initiated from the Jurisprudence which deems to have declared as the uncodified law but the ideology and the righteous way or providing the suitable punishment to the offender is derived from the Jurisprudential approach only, so what changes the question here in the today's dynamic period arises is of pivotal importance. As I was learning about the different theories of punishment it seems to have questioned myself and put me into the deepest analytical thinking that whether only one kind of punishment is sufficient for” the country like India? The kind of crimes we hear in our day to day lives, the kind of brutality we often find/discover in the crimes of today's time. Is it the uppermost layer or the upcoming time would make us raise our eyebrows by witnessing an introduction to another level of crime and that just doesn't stop there by the time we overcome what happened in the past we found ourselves introduced to the new type of brutality. I remember when my professor took a survey from my fellow classmates about the kind of punishments which are suitable in India, most of them found to be answering and replying with the Retributive theory approach with their reasonability. Initially I too was one of them having the same approach but later on I found myself questioning my inner voice that the things are not to be taken/assumed the way they are as the justice doesn't stand on just one pillar it has many of it and they are Circumstances of the Case, Evidences, Facts, Impact of it on Society, the Agony of the very conscious society, Judge's sensibility. There are some examples of the infamous cases- Mukesh & ANR V. State for Nct of Delhi & ORS. (Nirbhaya Rape Case) ^[1] that seemed to have crossed all the boundaries of the Brutality by a Human and that shook the Conscience of the Society in the commission of the crime where the deceased victim caused multiple injuries externally and internally by the convicted rapists where the matter was of such sensitive nature that the

Justice system had to face many criticism and many questioning from the general public regarding why do they need to be tried or why there's so much delay in our system with the saying “Justice delayed is Justice Denied” when we know that the acts were committed by those offenders where it costed the life of that victim who was bedridden and literally fighting for her life and her right to a fair trial which is guaranteed under Article 21 of the Indian Constitution ^[2] which finally came to Justice on 2017 almost half a decade pursuing for righteous justice, The fact that until now everyone seems to have ignored is “Right to Fair Trial” and the very important Principal of Jurisprudential Study of Nemo Debet Esse Judex in Propria Causa where the maxim states that the Trial should be independent of the External Aggression or influence which is quite evident that is not known to the General Public of the Republic that's why initial expression often results in Protest and Unrest in the Society/Country that alarms the common expression of “They should be hanged immediately irrespective of anything” ^[3]. My Fellow Professor once cited one statement during a lecture that the one who wants to understand the society should go to the people placed themselves at the corner of the roads or streets because they have the struggles and inaccessible immunities which are availed by the government but just because they don't have the chance to access the education they couldn't claim it and yes he was right almost which led to the rationality towards the fact that why education or literacy should be given the utmost importance because if the person is not exposed to the thought that there are some acts beyond which the person can be tried or deemed as “Criminal” and that could change the life of the person even for a day by spending one night in the Jail's cell. In today's time, a person with every possible proving fact and positive evidences of their side that would prove and bring justice in favour of them seems to be annoyed with the fact that what's taking so long and thus resulting in losing the credibility towards the Justice system of India and the wrongdoer seems to be roaming carefree in society with some baseless presumption of getting the delay in the case even when that person with the realisation of the fact that he is the offender. So, where do we develop this kind of

mentality that even if someone sues another person it seems to be being carefree and replying with the statements without hesitating that “Nothing would happen”. Punishment started with the only one absolute objective that one shouldn’t do some acts that would result in hurting someone’s right and in return the offender would be rewarded with some serious consequences which would set an example for the person who has committed that sin and as well as for the society that why this shouldn’t be done again and the aggrieved one would get the justice reasonable and fair enough to be satisfying himself against the act.

Historical Analysis of Punishment

Punishment was just not merely a state function to be performed but it was more regarded as a cosmic necessity. The concept of Danda was personified as a deity that protects all the creatures, therefore it was seen a purifying agent, according to the Manusmriti, if there would be no punishment, the dominance of stronger upon the weaker would be continuing in the future that’s exactly what’s happening even if there’s punishment in this modern world [4]. The focus was Retributive-Moralistic. The offender was expected to feel internal remorse because the crime was considered a violation of the universe order, whereas Modern Legal Theory categorizes punishment into specific schools of thought.

1. Retributive Theory

This is the oldest theory, summarised by the “Lex Talionis” which means an eye for an eye. It posits that punishment is a moral end in itself. In early Indian History, this was the dominant mode. However, modern Indian courts generally reject retribution as primitive.

2. Deterrent Theory

This theory talks about purposely instilling fear in the hearts of the offender and the public. In the Indian Context. The Death Penalty is often justified through this lens in “rarest of the rare” cases. As noted in *State of Karnataka v. Krishnappa* (2000):” Legislators and Courts have a duty to ensure that the punishment is proportionate to the crime so that it may acts as a deterrent” [5].

3. Reformatory Theory

This is the cornerstone of modern Indian criminal psychology. It treats the criminal as a victim of circumstances or a “patient” who needs rehabilitation. The Supreme Court in *Sunil Batra v. Delhi Administration* made some famous remarks upon this, “The purpose of the prison is to transform the person, not to break their spirits” [6].

The Backlog Existing

The National Judicial Data Grid (NJDG) report as of early 2026 states the pending cases in the country and the number of judges handling it. It states that there are 15 to 22 judges per million cases across all the adjudicated judicial bodies of the Country which creates a heavy backlog in the judicial administration of the Country and the data suggested by the National Law Commission that there should be at least 50 Judges handling it [7]. This is one of the reasons that such mentality or psychology seems to have developed. Let’s take an example where someone has pushed another person mistakenly now that person who got pushed would expect

an apology but on not getting it, the feeling turns to have escalated into the revenge mode that how did the person dare to and let the lesson be taught. That is the kind of mentality/psychology that is churning into a society where even the tiniest unintentional mistakes are turned into a massive issue. If people of the country aren’t proud of the law of the land and its credibility towards the justice system then such punishments sometimes lose their tendency to even reform the person then such humans just wait for their bail and do another offence right away and then again, the same process follows. In today’s time where every child can have access to luxury phones and different social media apps further the ongoing trends then why can’t they be taught a lesson of morality that would actually mean something and invoke some high moral values rather than merely passing the exams of their academic tenure? It is worth noting to be said that a person would dismiss all its morality when such a situation arises where he has to choose between the true citizenship based on humanitarian grounds and the way to satisfy their shallow egos. But when called upon to prove one’s religion, no one lacks behind in doing such duty then all of the teachings or practices goes into vain, why are we like that or which god gave such orders to break any law and the responsibility would be taken by them. God teaches to be peaceful; no god gave orders to be merciless creatures and create disruption or unrest on the name of it. The starting of having this kind of psychology starts when the person takes the assumption of breaking any law and they will be backed by their contracts and the privilege. This is ridiculous and very saddening about how the person starts to gain that kind of mentality, The person who actually plays with the justice system by finding the loopholes and being ignorant for this really turns out to be unapologetic and not guilty, as we speak punishments were for reformation but by committing a punishment and not being punished turns out to be habit forming for the person towards the acts he may do in future. The same nature of mentality can be admitted, when the punishment is perceived as weak or by passable, the offender becomes “carefree”.

The Psychological Paradox

The psychology shifts from remorse to strategically committing an offence. The criminal is no longer afraid of the morality of the crime. They find themselves calculating the risk involved and moreover finding the loopholes in the F.I.R (First Information Report) or the charge sheet. According to the Vedic and Smriti Periods, Punishment was intrinsically linked to the soul’s purification. The Manusmriti and Arthashastra did not view punishment as a mere social contract, as the offender was always afraid of the spiritual consequences so the psychology is quite evident as discussed above. Punishment was a form of Prayashchita (expiation). If the king failed to perform his duty to punish the guilty, the sin was said to be committed by the king itself, This created a higher moral standard for the society and with the modern age, people became very conscious and alarmed about their Human Rights and the law of the land, the shift from the Retributive model to Reformatory model is present, where the masses commonly thinks that the person should be punished so that he may

face or experience the same pain because of his acts, the Judge's analogy states different, Punishment is not given to inflict the pain to the person but rather to provide him a reformatory therapy so that he may develop empathy over the time and realisation of the loss that he has made and which has also impacted the society, There are multiple phases of punishment that a person who is granted has to go through and the person on the other side who would face such punishment and what change it would bring out in him over the time he would serve for the crime.

Loopholes and Technicalities

The transition from Morality-based Punishment to reformatory based- Punishment was a sign of civilisational progress. However, the lack of execution and without having strict adherence to the procedural framework and moreover the abundance of the loopholes has created a psychological vacuum. The offender today does not feel the moral "sting" of the law. In *State of Madhya Pradesh v. Munna Choubey* (2005), the Supreme Court issued a statement which was moreover an alarm against the excessive leniency that would lead to loss of public trust upon the Indian Justice System, it stated that "The Court will be failing in its duty if appropriate punishment is not awarded, Undue Sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law"^[8]. As the Contemporary Indian Criminal Often relies on the "Benefit of Doubt" and procedural lapses found its way to get off from it. In many high-profile cases like white collar crime and violent crimes, the focus is not upon proving innocence but much likely to explore new loopholes.

Conclusion

The trajectory of Punishment in India reveals a profound paradox: as our legal systems have become more vocal about the new criminal acts that may emerge in or day-to-day lives but the psychological deterrent against crime has arguably weakened, we have transitioned from the ancient to a modern bureaucratic process where justice is often buried under the privileges and of its own procedures. The original intent of the reformatory model was noble: it sought to reclaim the human being behind the criminal act. However, in the current Indian Landscape, this idealism has been hijacked by some "carefree" class that are having this kind of psychology that no longer fears the law but proudly admits the breakage of it and tends to find the loopholes. Another emphasis is upon that when the trial stretch across decades, the connection between the crime and the consequence is severed, turning the pursuit of justice into the war of attrition, this shift from "remorse-based reformation" to "procedural exploitation" is the greatest challenge facing Indian Jurisprudence today.

If we restore the integrity of our legal system and give birth to some morality in our minds, the punishments will once again become certain and meaningful, rather than a theoretical threat easily bypassed by those with the means to find the loopholes. The goal of the law should not be merely the "process", but to re-instil the moral friction that makes crime an unthinkable choice. Ultimately, we must move

towards a future where a law is not a game to be played, but a standard to be respected.

References

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