

Preventive Theory of punishment

Preventive theory of punishment seeks to prevent prospective crimes by disabling the criminals. Main object of the preventive theory is transforming the criminal, either permanently or temporarily. Under this theory the criminals are punished by death sentence or life imprisonment etc.

Philosophical View of Preventive Theory

Utilitarian's such as Bentham, Mill and Austin of England supported the preventive theory of punishment due to its humanizing nature. Philosophy of preventive theory affirms that the preventive theory serves as an effective deterrent and also a successful preventive theory depends on the factors of promptness. The proponent of this theory held that the aim of punishment is to prevent the crimes. The crimes can be prevented when the criminal and his notorious activities are checked. The check is possible by disablement. The disablement may be of different types. Confining inside the prison is a limited form of disablement, that is temporary and when it is an unlimited form of disablement, that is permanent. It suggests that imprisonment is the best mode of crime prevention, as it seeks to eliminate offenders from society, thus disabling them from repeating the crime. The death penalty is also based on

this theory. This theory is another form of deterrent theory. One is to deter the society while another is to prevent the offender from committing the crime. From an overall study, we came to know that there are three most important ways of preventive punishment, they are as follows:

- By creating the fear of punishment.
- By disabling the criminal permanently or temporarily from committing any other crime.
- By way of reformation or making them a sober citizen of the society.

Case Laws:

1. ***Dr. Jacob George v state of Kerala*** : In this case, the Supreme Court held that the aim of punishment should be deterrent, reformatory, preventive, retributive & compensatory. One theory preferred over the other is not a sound policy of punishment. Each theory of punishment should be used independently or incorporated on the basis of merit of the case. It is also stated that “every saint has a past & every sinner has a fortune”. Criminals are very much a part of the society so it is a responsibility of the society also to reform & correct them and make them sober citizens of the society. Because the

prevention of crime is the major goal of the society and law, both of which cannot be ignored.

2. ***Surjit Singh v State of Punjab***: In this case, one of the accused, a policeman entered the house of the deceased with the intention to commit rape but failed to do so as the as sons of the deceased shouted for help. Another accused suggested the policeman to kill the deceased. The accused was held liable under section 450 of the Indian Penal Code. While on the contrary, the death penalty or capital punishment is more of a temporary form of disablement.