



**F.Y.B.A.
SEMESTER - II (CBCS)**

**PHILOSOPHY PAPER - I
MORAL PHILOSOPHY**

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I

Semester - II

Unit 1: Morality of Self-interest [15 lectures]

- (a) Hedonistic Egoism: Epicurus
- (b) Psychological Egoism: Thomas Hobbes
- (c) Ethical Egoism: Ayn Rand

Unit 2: Modern Ethical Theories [15 lectures]

- (a) Ethics of altruism: David Hume: nature and origin of morality: sentiment (sympathy) versus reason; Virtues: artificial and natural
- (b) Deontological Ethics: Immanuel Kant: Categorical Imperative: formula of Universal law and formula of End-in-itself, critical appraisal.
- (c) Utilitarianism: John Stuart Mill: Critique of Jeremy Bentham's view; Greatest Happiness principle, higher and lower pleasures, two sanctions, critical appraisal.

Unit 3: Alternative Ethical Theories [15 lectures]

- (a) Augustinian Ethics: Happiness and Virtue, love of God and neighbour
- (b) Feminist Ethics: Ethics of Care: Carol Gilligan (against the backdrop of Lawrence Kohlberg's 'Stages of Moral Development')
- (c) Existentialist Ethics: Jean Paul Sartre

Unit 4: Theories of Punishment [15 lectures]

- (a) Retributive theory, critical appraisal
- (b) Deterrent theory and reformatory approach to punishment; critical appraisal
- (c) Capital punishment: retentionists versus abolitionists



Unit -1

MORALITY OF SELF – INTEREST - (Thomas Hobbes and Ayn Rand)

UNIT STRUCTURE

- 1.0 Objectives
- 1.1 Hedonistic Egoism: Epicurus
- 1.2 Psychological Egoism : Thomas Hobbes
- 1.3 Ethics and Human Nature
- 1.4 Motivation
- 1.5 Self-Protection and Self-Interest
- 1.6 The Laws of Nature and Moral Law
- 1.7 Morality of Self – Interest
- 1.8 Ayn Rand
- 1.9 Summary
- 1.10 Broad Questions

1.0 OBJECTIVES

- To understand Hobbes' psychological egoism and Ayn Rand's ethical egoism.
- To understand the morality of rational self-interest as against the morality of self-sacrifice.
- To know egoistic ethics as against altruistic ethics.

1.1 HEDONISTIC EGOISM: EPICURUS

Introduction

The term “hedonism” is derived from the Greek word “Hedone” meaning pleasure. According to Hedonism, hedone or pleasure is the ultimate standard of morality. It is the highest good, the

supreme end of life. According to Hedonism, an action is right when it produces pleasure and an action is wrong when it results in pain.

Kinds of pleasure

Hedonism takes different forms. It may be psychological or ethical. Psychological hedonism holds that we always seek pleasure and avoid pain. Ethical hedonism holds that pleasure is the proper object of desire, that we do not always seek pleasure but ought to seek pleasure.

Ethical hedonism may assume two forms viz. egoistic and altruistic. According to egoistic hedonism, the pleasure of the individual is the moral standard. According to altruistic hedonism 'the greatest happiness of the greatest number' is the ultimate moral standard.

Egoistic hedonism again may be of two types, Gross and Refined. According to Gross Egoistic hedonism momentary pleasure is the highest good. This view is held by Aristippus, Thomas Hobbes and Charvaka (an Indian philosophy school).

Epicurus

Epicurus (341-270 BC) was the Greek Philosopher. He was the follower of Socrates in Greece. He was an advocate of Refined Egoistic Hedonism. According to Epicurus, reason has an important place in our moral life. It is the proper guide for the attainment of true happiness. Momentary pleasures are not the highest good. But a happy life as a whole is the greatest good. Thus Epicurus differed from Aristippus.

Epicurus differed from Aristippus:

According to Aristippus, a man ought to seek the pleasure of each moment. Without consideration of future consequences. But

according to Epicurus, there should be consideration of consequences which would enable the agent to secure the greatest possible amount of pleasure in the world course of his life. He holds that man is a self conscious being and possesses reason. He thinks momentary pleasure he cannot forget the past and the future.

Epicurus differed from Aristippus in recognizing the importance of prudence. All pleasures are not equal to duration and intensity. Some pleasures that last long, some do not. Some pleasures have a greater intensity than some others. So they should be measured by both. He recognizes the necessity of giving up pleasure if it is likely entail greater pain and so he would prefer to pain to a pleasure if in doing so there is a great prospect of pleasure in the future and in the long run.

Pleasure means the absence of pain:

According to Epicurus, pleasure, means in absence of Pain. Pleasure is painlessness. Epicurus the great maxim of life is that we should cultivate a temper of indifference to pleasure and pain. The end of life is rather a state of indifference of neutral feeling, of insensibility than a positive state of feeling of enjoyment.

Criticism:

a) Egoistic hedonism can never supply us with a uniform standard of morality. What is pleasurable to one may be painful to another. If pleasure constitutes rightness and pain constitutes wrongness the moral standard is not uniform. Thus morality which is regarded by all as uniform is abolished.

b) The refined egoism of Epicurus is more effective than the egoism of Aristippus, because it recognizes the function of reason in moral life. But it regards pleasure as negative feeling or absence

of pain. Hence it does not encourage active life but rather an inactive life. Free from pain. It forgets that morality consists in activity rather than in painless inactive life.

1.2 PSYCHOLOGICAL EGOISM : THOMAS HOBBS

(1588-1679)

Thomas Hobbes was a British Empiricist. Thomas Hobbes was born in Malmesbury, England. He studied scholasticism and Aristotelian philosophy at Oxford University. He devoted much of his time to independent reading of literary classics. Upon graduation in 1608, Hobbes was selected as a tutor for the young son of the Cavendish family. He had sufficient time to reflect, travel and become acquainted with such outstanding contemporary philosophers and scientists as Galileo, Francis Bacon, Kepler, Descartes, Gassendi and Mersenne. He wrote many books but his *Leviathan* treatise is very popular in political philosophy. He is best known for his political thought. He is called the founding father of modern political philosophy.

Hobbes was mainly concerned with the problem of social and political order, i.e. how human beings can live together in peace and avoid the danger and fear of civil conflict. He felt that the world in which we live is such that human authority requires justification. He felt that society is a place where there is a social and political equality and it is also a world where authority faces dispute. Hobbes further felt that the world in which we live is such that human beings have rights, moral claims which protect individual's basic interests. It is said that Hobbes' work is a result of two influences.

1) First is the influence of social and political background. Hobbes reacted against the religious authority, especially against scholastic philosophy.

2) The Second was the influence of science. Hobbes had a great admiration for scientific method of Geometry. This geometrical method is capable of giving us certain and universal knowledge. Both these influences have affected his moral and political ideas.

1.3 ETHICS AND HUMAN NATURE

Hobbes' moral thought is based on the view that what we ought to do depends greatly on the situation in which we find ourselves. According to Hobbes, where political authority exists, our duty seems to be quite straightforward i.e. to obey those in power. Hobbes separates Ethics from politics. According to him ethics is concerned with human nature, while political philosophy deals with what happens when human beings interact.

Our fundamental rights depend on the political ground. At that time our duty is to obey the laws and the rules of the society. Hobbes said that the human body is like a machine and political organization is like an artificial human being. He further says that the truth of our ideas can be known only by self-examination, by looking in to our characteristic thoughts and passions because it forms the basis of all human actions. So Hobbes follows a method in which he passes from emotions to thought. Hobbes' mechanical world view has no place for moral ideas. He thinks that the only effective influence on our behaviour is the incentives of pleasure and pain. On the basis of this Hobbes gives a picture of human nature & says that we have to consider what motivates human beings to act. Besides judgement and reasoning are equally important.

Hobbes has several reasons for thinking that human judgement is unreliable and it needs to be guided by science. He says, firstly our judgement could be influenced by self-interest. Secondly our judgement can be influenced by pleasure and pain of

the moment. Thirdly there could be basic passions which can influence it. Fourthly, various things in the world can affect all of us very differently. Fifthly, our judgement can be based on faulty ideas like beliefs about supernatural entities, fairies and spirits. Sixthly our judgement can be influenced by persuasion by others. Lastly judgement also depends upon what we know rather than future events because future events are unknown. Thus for Hobbes it is only science which is the knowledge of consequences that offers reliable knowledge of the future.

1.4 MOTIVATION

Hobbes's account of human nature depends upon human motivation like self-interest, egoism, because Hobbes feels that human beings are selfish. He advocated psychological egoism. Egoism being deeply ingrained in his nature, Man always seeks things which can specify this dominant aspect of his nature. According to Hobbes, it is first step men took in the direction of the formation of a community which required the subordination of individual interests and pleasures to the good of the whole and as regards the growth of moral and social feelings in man. Hobbes maintains that, with the growth of such political and social institutions, our mental tendencies also undergo great deal of change. Benevolence is quite necessary in society. It is a tendency to do good to others in the hope of getting a greater good for ourselves. Friendship, likewise is another source which helps us in the attainment of our good. Here Hobbes explains the origin and growth of various social, political and moral institutions.

There are two postulates of human nature. 1) It is the postulate of human nature by which each man insists upon his own private use of common prosperity. 2) The postulate of natural reason by which each man strives to avoid violent death. This

represents false view of human nature. Though man is selfish, he even relies on motives which go beyond his self-interest. For example pity, courage, honour etc. All these are cases wherein we observe the instances of interests of others and rising above self-interest.

Hobbes further thinks that beyond the notion of self-interest man is more concerned about what others think of him. This weakness has led to the formulation of this theory known as 'psychological egoism'. According to Hobbes the natural condition of mankind is a state of violence, insecurity, constant threat etc.

1.5 SELF-PROTECTION AND SELF-INTEREST

Hobbes argues that society originates out of self-interest and fear, not out of natural feeling for one's fellow men. He defends as natural and reasonable the interest each man takes in his own welfare and happiness. In a state of nature the first and only rule of life is self-protection and men have a natural right to do anything which serves this end.

1.6 THE LAWS OF NATURE AND MORAL LAW

According to Hobbes the laws of nature are immutable and eternal. Injustice, ingratitude, iniquity and the rest can never be made lawful. For it can never be that war shall preserve life and peace destroy it. The science of these laws is the only true moral philosophy. Moral philosophy is a science of what is good and bad in the conservation and society of mankind. These laws are called natural laws. because They are dictates of reason. They are called moral laws, because they concern men's manners toward one another. Hobbes establishes civil authority and law as the foundation of morality. He is arguing that morality requires social authority. Which must be in the hands of the sovereign. The will of

a sovereign power whose authority is absolute. Morality is based upon-law and the law of the absolute sovereign. Only the institution of Government, which can be reward right actions and punish wrongdoing, is moral conduct possible. Without civil authority it would be foolish and dangerous to follow the precepts of morality. Men are moral only it is conducive to individual security and prime condition of security is absolute civil power. Hobbes concludes that the laws of nature may be summed up in a rule which everyone accepts, the Golden Rule lastly Hobbes ethical theory leads to the political doctrine which is designed to end the natural war of every man with every other man. Thomas Hobbes is called the founding father of modern political philosophy.

Check your progress

1. What is psychological egoism?
2. Does psychology of human nature support psychological egoism?
3. State Thomas Hobbes's psychological egoism.
4. What is meant by absolute sovereignty?
5. What is the different between psychological egoism and ethical egoism?

1.7 MORALITY OF SELF-INTEREST

Morality of self-interest is another name for egoistic ethics. There are two types of egoism :

- 1) Psychological egoism
- 2) Ethical egoism

According to psychological egoism man by nature strives for the satisfaction of his or her desires and fulfils one's interests. Man, by nature, is selfish. English Philosopher, Thomas Hobbes (1588 -

1679) is an advocate of psychological egoism. According to ethical egoism, one may or may not strive to fulfil one's desires. To say that one ought to practice the morality of rational self interest means that one ought to be an egoist in pursuing his or her own rational interests. American thinker Ayn Rand (1905 - 1982) was an ardent advocate of ethical egoism in 20th century America. She vehemently stood for the virtue of rational selfishness.

1.8 AYN RAND (1905-1982)

Ayn Rand was an American author and thinker. She was born in Soviet Russia. The communist revolution took place in Soviet Russia in 1917. The communist regime suppressed freedom and thus Ayn Rand left Russia in 1926 and went to USA. She became a citizen of USA in 1931. Since then, she opposed organized religion and dictatorship of every kind. Her philosophical position is known as objectivism. She proudly admitted the influence of Aristotle on her thinking.

Ayn Rand accepts the influence of Aristotle on her thinking. At one place, Rand praises the American Declaration of Independence by the founding fathers of American establishment. This document states: Every man has a right to his own life, his own liberty, and the pursuit of his own happiness. She further comments: it does not mention service to others. She was a rationalist, atheistic, ethical thinker. The 1st principle of rationalism is that I have the right to live. Likewise, others also have the right to

live. Secondly, rationality means context-keeping. To go by reason means not to be guided by emotion and whims. Reason demands the recognition of rights of all human beings. It, she says, is based on the simple fact that man exists by means of his mind. Sometimes it is said that reason determines only the means and not the ends or aims of human life. That is to say that ends are not

chosen rationally. Rand was opposed to this idea. She firmly said that we must choose our ends by reason or we perish. Rand talks about three modes of living. They are:

1. Plant model: Plants don't have to move in order to get their life-supporting elements. They get them from the soil in which they grow.
2. Animal model: Animals and birds have to seek their food and water. Even the lion, the king of jungle, has to seek his food.
3. Human model: Man does not merely seek food. He has to do productive work. For that purpose he has to choose actions. He has to think. He has to seek knowledge. He needs knowledge in order to live. Hence, selfishness is a virtue. Further she elaborates: Selfishness means the pursuit of one's rational self-interest. Moreover, selfishness means to live by the judgement of one's own mind and to live by one's own productive work without forcing anything on others. Humans, by nature, are not enemies of each other. Moreover, concern with one's own interests is not evil. 'Selfishness' is also not to be identified with evil. 'Selfishness,' according to Rand, ridicules the concept of a self-respecting, self-supporting man who supports his life by his own efforts and nither sacrifices himself or others. Rand says: "To attack selfishness is an attack on man's self- esteem."

Rand was opposed to Altruistic Morality. Altruism orders man to sacrifice one's interest for the good of others. Altruism is possible but it is not desirable. According to her, pure altruism treats humans as sacrificial animals, and every kind of dictator advocates altruistic morality, and suppresses human rights and freedom of thought and speech.

Man is neither a mere animal nor a robot. He is a rational animal. Man has a right to live. Life itself is a value. So whatever supports a happy and healthy life is good. Whatever is detrimental

to life is bad. One has to take decisions by one's self and also take responsibility of one's decisions and actions. One must earn one's livelihood. He is unjust to claim unearned wealth. Honesty is not to deceive others and to hate lying, and not to desire what one does not deserve. These principles are applicable to all human beings.

Even Knowledge according to Rand has only an instrumental value. Knowledge is not a value itself. Knowledge is good or even scientific knowledge, in particular, is a value because it expands, enriches, and protects man's life. It is not a value outside this context. There is nothing wrong in helping others. But it is not one's ethical duty to help others. One may try to reform society but it is not one's moral obligation to do so. One may choose to help others and reform society, but that is or that should be one's choice. It must be the result of one's free and rational choice.

Check Your Progress

1. Explain selfishness as a virtue.
2. Can one help others according to Ayn Rand?

1.9 SUMMARY

Thomas Hobbes advocates psychological egoism. According to Hobbes man by nature is selfish. But we also observe people do show sympathy for the sad condition of others especially one's kith and kin or friends. Man also on occasions acts benevolently. This fact goes against the Hobbesian thesis that man is nothing but a selfish animal. He seeks his own interest only. Hence most of the social thinkers of the world have rightly asserted that man is a social animal. He can not utterly neglect the interests of others.

Rand's morality of self-interest emphasizes the values of rational choice. Freedom, a personal dignity, self-reliance, self-belief, and dignity of labour are important values in her ethics. But extreme individualism and extreme socialism are dangerous. Man as a social animal has to take note of the existence of others and their problems. We must hit the balance between egoism and socialism or self-interest and also the interests of others. At one point Rand rightly says that she is mainly a defender of reason and not of individualism or capitalism. In her thoughts Ethics of Emergencies, Rand says that "If one's wife is in danger, one must use one's money to save his wife. It is a 'rational' moral choice. It is conducive to one's own happiness. If he really loves her, then it is not a sacrifice."

Rand is an advocate of humanism. According to her, humanism means faith in human talents and potentialities. Man has to stand on his own feet. He can choose values and pursue them. He can be the maker of his destiny. Another important point is that man must choose his values freely and frankly and fearlessly. Rand is opposed to altruism because it promotes parasitism. The dictators, fascists and even communists regime preach altruism to the people and enslave them and thereby the whole of mankind is reduced to the status of sacrificial animals such as goats and sheep.

1.10 BROAD QUESTIONS

- 1.State and critically evaluate Thomas Hobbes psychological egoism.
- 2.Does psychology of human nature support psychological egoism.
- 3.What is the difference between the psychological egoism of Hobbes and the ethical egoism of Ayn Rand?
- 4.What is altruism according to Ayn Rand? Why is she opposed to altruism?



Unit -2

MODERN ETHICAL THEORIES

UNIT STRUCTURE-

2.0 Objectives

2.1 Introduction

2.1.1 Ethics of Altruism

2.1.2 Nature and Origin of Morality

2.1.3 Types of Virtue

2.2 Categorical Imperative of Kant

2.2.1 Introduction to Kant's views

2.2.2 Kant's notion of good will

2.2.3 Maxims of Morality

2.2.4 The complete Good: Virtue & Happiness

2.2.5 Postulates of Morality

2.2.6 Criticism Check your progress

2.3 J.S. Mill: Utilitarianism

2.3.1 Hedonism

2.3.2 Forms of Hedonism

2.3.3 Ethical Hedonism

2.3.4 Utilitarianism

2.3.5 Jeremy Bentham's Gross or Quantitative Utilitarianism

2.3.6 Mill's Refined or Qualitative Utilitarianism

2.3.7 Criticism of Utilitarianism Check your progress

2.3.8 Kant's view (Rationalism) and Mill's view (Hedonism)

2.4 Summary

2.5 Broad Questions

2.0 OBJECTIVES

- To familiarize students with modern moral theories of David Hume Kant and Mill.
- To become aware of the origin of morality
- To develop a sense of morality based on analysis of motive of action and consequence of an action.
- To know how 'sense of Duty' and 'Happiness of many' can inspire our activity.
- To construct ethical framework for assessing moral decisions in different areas of life.
- To become aware of different moral outlooks in a globalized world.

2.1 INTRODUCTION

There is a difference between ancient ethical theories and modern moral theories. Modern moral theories focus either on sentiments or duty or consequences. There is debate in moral philosophy whether the intention of act is to be considered or consequences of an act while giving moral judgment. Hume focusses on sentiments; Kant emphasizes duty while Bentham and Mill considers the consequences of an action. In this chapter we will study David Hume's altruism, Immanuel Kant's categorical imperative and Utilitarianism of Mill and Bentham.

Ethics is a normative science. It deals with the norms or standards, in the light of which human actions are to be evaluated. Every human action shows the sequence - the motive behind action – the performance of chosen action --- and the consequence of chosen action. Thus, human action can be evaluated on the basis of motive behind the action or the consequences of action. Ethics

evaluates the human conduct with reference to the 'Summum Bonum' of life; and declares the action as good or bad, right or wrong. The concepts of 'Good' and 'Right' are extremely important for the evaluation of human conduct. The action which is valuable or useful for some end is 'Good' action. The term 'Good' shows desirability or utility of something. The term 'Good' indicates goals or ideals of human life. The action which is 'according to the rule' is 'Right' action. Rules are the means to the realization of some goal. Man lives in groups. Various groups have their own specific rules of behavior, conduct and manners. In this way by the goals [Good] and by the means to goals [Right] Ethics evaluates human conduct. These two ways of evaluation are named as Teleological view and Deontological view respectively. Teleological view of Ethics gives importance to the concept of 'Good'. This view aims at evaluation of human actions on the basis of the consequences of the action. Modern thinkers like Jeremy Bentham and J S Mill define 'Summum Bonum' of life in terms of 'pleasure'. Rightness of any action is determined by the pleasure (good) produced by the action. They advocate Hedonism which is a teleological theory. Deontological view of Ethics gives importance to the concept of 'Right'. Any action is to be evaluated by its obligatoriness [rightness], irrespective of its consequences. This view regards an action morally right not because of good outcome but because of some characteristic of the action itself. Deontological theories place special emphasis on the relationship between duty and the morality of human actions. Acts are inherently good or evil regardless of the consequences of act. The theory of Immanuel Kant is Deontological theory. It gives importance to the performance of duties irrespective of the consequences.

2.1.1 ETHICS OF ALTRUISM: DAVID HUME

David Hume: David Hume was a Scottish philosopher, historian and economist. He was born on 7th May 1711 and died on

26th August 1776. He is well known for his empirical, skeptical method. He criticizes innate ideas, according to him all knowledge derives from the experience. Some of his important books are 'A Treatise of Human nature', 'The history of England', 'Essays Moral, Political and Literary', 'An enquiry Concerning Human Understanding' etc. Being an empiricist he held the position that human behavior is governed by passion and not reason. His ethics is based on his empiricist theory of mind. His main ethical thought is found in book 3 'Of Morals' of 'A Treatise of Human Nature' and 'An Enquiry Concerning the Principles of Morals'. Hume influenced many philosophers and thinkers.

2.1.2 Nature and Origin of Morality

According to Hume "moral decisions are grounded in moral sentiments". Feelings play an important role in ethical actions. The rules of morality are not based on reason. He views sympathy as the fact of human nature on which all social life and personal happiness is based. Hume emphasizes on Altruism i.e. one always aims at happiness of others and happiness of self. Human nature is such that one laughs with laughing person, grieves with grieved person.

There are different positions in moral philosophy like rationalist, empiricist etc., rationalist position considers that moral judgments are based on reason as contrast to this Hume holds a different view according to which sentiments or feelings plays an important role in moral judgments. It is on the basis of emotional capacity we determine whether the action is morally right or not. Moral evaluation depends on human capacity of sympathy, it is because of this capacity we are able to understand others feelings, emotions and beliefs. According to Hume there is a strong connection between morality and human sociability. Our capacity of

understanding other's feelings of pleasure and pain determines our moral evaluation.

Hume's moral philosophy is called as naturalistic as it is based on emotions and sentiments. The source of moral philosophy is not any religious authority or divine source. Plato, Aristotle etc. believed that reason is the distinguishing feature which separates human beings from animals. Rationalist philosophers consider reason as the basis of moral evaluations. Hume considers reason on its own is powerless and it needs assistance of emotion or passion to be effective. Hume argues that moral assessments are not judgments of empirical facts, but they are our feelings based on approval or disapproval. Moral approval is emotional response. According to Hume all moral actions are motivated by character traits which may be virtuous or vicious.

Hume argues that although while distinguishing right and wrong our internal feelings and emotions play an important role however reason is also needed to ascertain the facts about the person. Hume denies that moral evaluation is result of 'reason' alone. Hume puts forward the following 'influence argument'. (Ref: <https://www.iep.utm.edu/humemora/>)

- Moral distinctions can influence human actions
- "Reason" alone cannot influence human actions.
- Therefore moral distinctions are not the product of "reason" alone.

Here moral distinction means moral evaluations which distinguish right and wrong, and this according to Hume can motivate the person to do right. In the 'influence argument' Hume believes that people can distinguish between what is right and wrong or good and bad and this distinguishing capacity can motivate a person to do right action. "Hume claims that recognition of moral right and wrong can motivate action."

To prove 'reason' alone cannot influence human action, Hume uses 'the divide and conquer argument'. He divides reason into two categories i.e., demonstrative reason and probable reason, and then he argues that neither of these reasoning influence human action. Therefore, reason alone cannot influence human actions. The motivational force of an action is not these two reasoning but the feeling of pleasure or pain or a passion. For example, one who knows eating an apple a day keeps a doctor away will not eat it unless he has a passion for a good health. According to Hume motivational force to pursue the particular goal comes from the passion.

Reason and passion are not in conflict with one another. Hume emphasizes that reason alone cannot be the motivation of action. Hume's famous statement is "Reason is, and only ought to be the slave of passion" what he intends to say is that it is the passion which determines or decides our goals or our action and reason only tells us what are the different ways to achieve it.

In the judgment of moral action there are three factors i) agent ii) receiver iii) spectator. When the action is performed by an agent e.g. giving food to a starving person then the person who receives it immediately becomes happy since he approves that action. A spectator while passing a moral judgment considers the persons act as right which is determined by his feeling of sympathy of happiness which the receiver experienced. So, it is the capacity of sympathy which plays an important role in moral judgment.

2.1.3 Types of Virtue.

Moral agent performs moral actions as per character traits which may be either virtuous or vicious, these traits are either natural or acquired. There are two types of virtues i.e. natural and artificial and Hume distinguishes between these two types. Natural

virtues are charity, generosity, humbleness kindness, courage, benevolence, pride, truth etc. Artificial virtues are equality, justice, keeping promises, allegiance and chastity etc. Artificial virtues are those which are based more or less on social interaction. For maintaining peace and harmony in society artificial virtues are required. All those that are required for maintaining social order are called as artificial virtues.

Hume considers that there are four irreducible categories of qualities that constitute moral virtues. They are i) qualities that are useful to others like benevolence, charity etc. ii) qualities that are useful to oneself like discipline, patience etc. iii) qualities that are agreeable to others like wit, cleanliness etc. iv) qualities that are immediately agreeable to oneself like good humor, self-esteem, self-pride etc.

Short Questions

- Q.1 What is the most important in moral actions according to Hume?
- Q.2 How Hume proves reason alone cannot influence moral action?
- Q3. Explain Hume's influence argument.
- Q.4 Explain types of virtues.

2.2 IMMANUEL KANT: CATEGORICAL IMPERATIVE

Kant, the German philosopher, lived his life on the lines of Categorical Imperative which he stated. Kant's life was so organized, disciplined, rather mechanical and time bound that people in Konigsberg used to set their watches according to his activities. He remained unmarried and lived his uneventful life within Konigsberg till his death. Kant propounded critical

philosophy. He reconciled empiricism and rationalism. Kant always respected 'Good' will and 'Moral Law'. The following lines are carved on his memorial in Stoa – 'Above me is the starry Heavens and Within me is the Moral Law' Kant's moral philosophy can be stated as below-

2.2 1 Introduction to Kant's Views

Appearance and Reality According to Kant, the universe has two faces-the real universe and the apparent universe. The things as they are in themselves exist in the real universe. The things as they appear to us exist in apparent i.e phenomenal world. The real universe can be known through reason and human intellect can know the phenomenal world through senses. According to Kant man, is a creature - half sensuous and half rational. Human beings, by the very constitution of reason are compelled to view the universe as purposive. Human reason centers about three questions. 1. What may I know? 2. What ought I to do? 3. What may I hope for? Kant believes that human reason has two functions viz. theoretical and practical. The first question, "What can I know?" is answered by theoretical function of reason. We know the phenomenal world through theoretical reason with senses. We also know that over and above this phenomenal world, there is another world of real objects knowable by reason alone. The second question "What ought I to do?" is answered by practical reason. To answer this question, practical reason selects the actions to contribute to the purpose of universe. Pure rational will, determines the maxims in accordance with which moral actions are decided upon. Practical reason is the capacity to act, rather than the insight into the content of moral law. Practical reason imposes moral law. Kant says, "To be is to do". The third question, "What may I hope for?" Kant answers, since reason commands moral law, I may hope for happiness. Morality and happiness are inseparably connected.

Moral knowledge makes us aware about what should be the real nature of things that we experience. Practical reason provides a way out of phenomenal world of appearances. Moral experience connects us with the world of things as they are. Kant believes that moral law arises from pure will. It arises from free and rational will which is self-determined and self-legislative. A person is free when he is bound by his own will and not by the will of others. Moral law is autonomous as the source and the authority behind the law is the individual's own will. The moral law does not operate through the influence of external factors. Each person's own reason is the authority, the legislator and the executor of the moral law. Morality is autonomous, universal and unconditional. For example: An autonomous state is one in which the laws are made by the will of the people in that state. The laws have no legitimate authority when they are imposed by another state as it happened during colonization.

2.2.2 Difference between Hypothetical Imperative and Categorical Imperative.

Kant regards the moral law imposed by practical reason as Categorical Imperative. Categorical Imperative is the internal law imposed by conscience upon itself. Kant distinguishes Categorical Imperatives from Hypothetical Imperatives.

- A hypothetical imperative is assertories. It is an assertion of fact. e.g. The psychological law, "All persons act to relieve a feeling of want". It is a statement of fact. Moral law is an imperative or command which should be necessarily obeyed. It is not an assertion but a statement of standard
- A hypothetical imperative is conditional. It is a means to some other end. If we want to enjoy good health, we must observe the laws of hygiene. Moral law is categorical i.e. it is unconditional. It is not a means to some other

goals. It is an end in itself. It admits no questions. It demands unconditional obedience.

- A hypothetical imperative is derivative. Natural laws are derived from experience. It depends upon empirical facts for its obedience. Moral law is a priori. It is not derived from experience. It is known through reason.
- A hypothetical imperative can be set aside by higher laws. If the circumstances change, it may change. Moral law cannot be set aside by any higher laws. It is the Categorical imperative and ought to be followed in all situations.
- A hypothetical imperative is relative and subjective. It applies to different individuals in different forms. Moral law or categorical imperative is to be obeyed universally. It applies to all persons. It is command to all rational beings.

2.2.3 Kant's notion of Good Will-

Kant holds that Good Will is the only good. Kant says "Nothing can possibly be conceived in the world or even out of it, which can be called good without qualification, except a good will." It is the only Jewell that shines by its own light A good will is one that habitually wills rightly. The rightness or wrongness of volition depends wholly upon its motive. An action is moral, if its motive is accompanied by good will. Wealth, talent and power are not good in themselves. If they are associated with bad motive, they are not good. When these are accompanied by good will, wealth, talent, power etc. are good. Kant says, "Worth of moral action lies, not in the purpose to be attained by it but in the maxim in accordance with which it is decided upon." Good will is the rational will. It is autonomous and self- legislative. It lays down its own laws. While obeying the maxim of good will, man follows his own higher self.

Thus, man is truly free in Good will follows categorical imperative i.e., moral law, laid down by it. Moral law is to be followed out of pure respect for it. It is to be obeyed out of consciousness of duty and not due to emotions, feelings or desires. Moral life is the life of pure reason. Feelings and emotions ought to be completely suppressed. To give way to compassion or love is irrational and thus non moral. To lead moral life, the will ought to be guided by its own moral law or categorical imperative. Kant says the will is free when it acts solely from the sense of duty. The true rule of life is "Duty for duty's sake." According to Kant an action is right or moral when a) it conforms to moral law b) the person performs it out of pure respect for moral law i.e., "duty for duty's sake". The moral law, i.e., categorical imperative is a pure form without matter. It cannot tell us what we should do or what we should not do. It simply tells us that actions should conform to a form. Kant does not tell us about the contents of our actions. He maintains that our actions should be in accordance with principles of moral law. Our actions should self-consistent. The moral law or the categorical imperative is a pure form, devoid of content.

2.2.4 Maxims of Morality

Kant lays down following rules of conduct to make the moral law i. e. the Categorical Imperative more definite:

1. Act only on that principle which can be a Universal law. This principle shows that what is right is universal. Kant says, Act in such a way as you could wish that everyone else should act in same way. Kant gives the example of breaking promises. This act is wrong because it cannot be universalized. If everyone breaks promise, no one can make any promise. So, no promises would be made even to break it. If everyone commits suicide in despair no one would be left to commit suicide. According to Kant, this maxim states unity of the form. This is the Formula of Universal Law.

2. Do not use any person including yourself as only means. This maxim holds a person as an end in itself and not as a means. Man is essentially a rational being. The rational nature is an end and has absolute value. Thus, rationality of human beings ought to be respected. We should respect our own personality and that of others. Personality has an absolute worth. To make a false promise to a creditor is to use him as a means to one's profit and not to respect him as a person. Similarly, we should not allow ourselves to be used as means to others. According to Kant, this is the principle of inherent dignity of man. This is the Formula of End in-itself.

3. Act as a member of Kingdom of ends. (Autonomy of morality) A Kingdom of Ends, is an ideal society of rational beings following Moral law. Rationality is universal. So, all persons following the Moral Law should live in perfect harmony with one another. Third maxim holds that, every human being including oneself has intrinsic value. Everyone in this kingdom is sovereign i.e., imposes moral law upon himself and subject at the same time i.e., he obeys the moral law imposed by himself. All rational and self-ruled beings stand on equal grounds. According to Kant, this is synthesis of form and matter.

2.2.5 The complete Good: Virtue & Happiness

Kant believes that virtue is the supreme Good. However, it is not complete good. The complete Good consists in association of virtue with happiness. To lead moral life, a man ought to pursue virtue for its own sake and not for the sake of happiness. The moral end consists in promotion of one's own perfection and the happiness of others. Virtue depends upon good will within our control. Happiness depends upon the external circumstances which are beyond our control. Virtue does not include happiness, nor does happiness include virtue. The harmony of virtue and happiness is brought about by the God.

2.2.6 Postulates of Morality

Kant Speaks of the necessary conditions for the fulfillment of morality. 1. Freedom of the Will: Free will is implied by morality. If a person is not free to select any course of action, the action can never be voluntary. Moral actions are necessarily voluntary actions. Voluntary choice assumes freedom of the Will. 2. Immortality of the Soul Morality involves the conflict of desires with duty. But desire cannot be eliminated in this finite life. It will require more than one life. The continuity between various lives is assured by Immortality of the Soul. 3. The Existence of God The persons who follow the moral law consistently and habitually are called virtuous. The virtuous should be happy. But in the actual life, they are rarely happy. So, God will reward happiness to the virtuous people, if not in this world, then in the next world. God will harmonize virtue with happiness.

2.2.7 Criticism

1. Kant's theory is based on psychological dualism of reason and sensibility. He considers reason and sensibility as contrary to each other. But moral life implies sensibility i.e., feelings and desires as a necessary element in it.

2. Kant's theory is ascetic. Kant commits mistake in considering sensibilities as necessarily irrational. Actually, feelings and desires are the matter of moral life.

3. Kant's Good Will is empty will. Jacobi Says, "The pure will of Kant is a will that wills nothing." 4. Kant's theory is formalistic. His first and third maxims are purely formal principles. We cannot deduce our duty in the concrete situations from these principles.

5. Kant 's Second maxim says: We should not treat ourselves as means. But some persons should sacrifice their lives for a noble

cause e.g., freedom of the country, progress in science, etc. Therefore, under certain circumstances some persons should treat themselves as means.

6. Kant's Second maxim says that we should not treat others as means. But in a special situation we have to treat other persons as means. e.g., We should isolate a person who is suffering from schizophrenia for the good of others.

7. Kant's theory appears to be too much rigorous. According to Kant, no action is moral if it is accompanied by feeling or emotions. So, the acts of benevolence, bravery etc. if accompanied by love or compassion is not moral. But generally, people appreciate those actions which spring from love and compassion. The actions which are performed solely by the sense of duty are not appreciated. So, in human life, the feelings and emotions are more important.

8. Virtue and morality presuppose the conflict of desire and duty, passion and reason. If a man eliminates sensibility or passion, there will be no conflict between desire and duty. Therefore, if the conflict vanishes, there will be no virtue or morality. John Henry Muirhead calls it the paradox of Asceticism.

9. Kant defines 'Good' in terms of 'Good Will'. Hence, according to George Edward Moore, Kant commits the Naturalistic fallacy. When a moral concept is defined in psychological or naturalistic terms, the Naturalistic fallacy is committed.

Check your progress

1. What is the core idea of Kant's ethics?
2. Which are the important questions for human reason?
3. What is the difference between hypothetical imperative and categorical imperative?

4. What are the maxims of morality?
5. What are the postulates of morality?

2.3 J. S. MILL'S UTILITARIANISM

Utilitarianism is the universalistic form of Ethical Hedonism. Let us know more about the origin of J S Mill's view.

2.3.1 Hedonism

Hedonism is a theory which believes that 'hedone' or pleasure is the highest Good, the supreme ideal of life. Hedonism assumes that human beings are sensuous in nature. Reason or intellect has secondary position in human nature. Reason points out the best means for the satisfaction of desires, passions and appetite. So sometimes hedonism is called as ethics of sensibility. Hedonism assumes that human beings by nature seek pleasure and avoid pain. Men desire various objects which ultimately aim at pleasure. Hedonism evaluates human actions on the basis of the consequences of actions i.e. pleasure and pain. Human conduct has a value in proportion to the amount of pleasure in it. The standard of morality for Hedonism is 'pleasure'. A right action is that which produces pleasure. A wrong action is that which produces pain.

2.3.2 Forms of Hedonism

There are two forms of Hedonism viz. Psychological Hedonism and ethical Hedonism. Psychological Hedonism believes that pleasure is the natural object of desire. Man, naturally seeks pleasure. Psychological Hedonism is a statement of fact. Ethical Hedonism believes that pleasure is the proper object desire. Man ought to seek pleasure. Ethical Hedonism is a statement of value. Ethical Hedonism has two forms viz. Egoistic Hedonism and universalistic Hedonism or Utilitarianism. For Egoistic Hedonism,

individual's own pleasure is the highest good For Utilitarianism, pleasure of a number of people is the highest good.

2.3.3 Ethical Hedonism-

Ethical Hedonism holds that man desires many things apart from pleasure. We do not always seek pleasure. However, pleasure is the proper object of desire. We ought to seek pleasure. Obviously, the question arises, "whose pleasure?" The answer of this question leads to 2 forms of Ethical Hedonism viz. Egoistic Hedonism and universalistic Hedonism. Egoistic Hedonism strives after individual's own pleasure. Universalistic Hedonism seeks general happiness and not individual pleasure. Universalistic Hedonism is also called as Utilitarianism. Ethical Hedonism, [whether Egoistic or Universalistic] again has two varieties viz. gross and refined. Gross Hedonism gives weightage to the sensuous pleasures. All pleasures are alike, and they differ only in intensity. Present pleasures are to be preferred over future pleasures. Refined Hedonism gives weightage to mental and more subtle, fine pleasures. Refined Hedonism accepts the role of reason in the attainment of pleasures.

2.3.4 Utilitarianism

It is the altruistic or universalistic form of Ethical Hedonism. Utilitarianism maintains that the supreme ideal of life is pleasure - not the individual pleasure but universal or general happiness. The slogan of Utilitarianism is, "The greatest happiness of the greatest number". Utilitarianism evaluates human actions on the basis of their consequences. Actions are judged by their utility to produce pleasure or to prevent pain. The action that leads to best consequences i.e., produces more pleasure is right action. Utilitarianism a teleological theory as it determines the goodness of an action by referring to its consequences. Jeremy Bentham

advocates Gross or Quantitative Utilitarianism while J.S. Mill advocates Refined or Qualitative Utilitarianism.

2.3.5 Jeremy Bentham's Gross or Quantitative Utilitarianism

Jeremy Bentham's Utilitarianism can be summarized as follows: Nature has placed mankind under the governance of two Sovereign Masters viz Pleasure and Pain. These masters point what we ought to do and determine what we shall do. Bentham argues that we do desire pleasure therefore we ought to desire pleasure. Pleasure is the only desirable. All other things like wealth, power, knowledge etc. are desired because they lead to happiness. Bentham says weigh pleasures and pains in our actions. An action is right if it produces pleasure. An action is wrong if it produces pain. The worth of an action consists in its utility to produce pleasure and to avoid pain. Bentham believes that all pleasures are alike. Pleasures do not have qualitative differences. Pleasures have only quantitative differences i.e., they are more or they are less. Bentham argues that the quantity of pleasure remaining the same, pushpin (a game) is as good as poetry. The quantity of pleasure can be calculated. The quantitative differences can be measured by seven-point scale. To calculate pleasure, Bentham considers seven dimensions of pleasure. The Hedonistic Calculus (Calculus of Pleasure) is as follows: 1. Intensity 2. Duration 3. Proximity 4. Certainty 5. Purity i.e., freedom from pain, 6. Fruitfulness i.e., capacity to give rise to other pleasures and 7 Extent i.e. the number of persons affected. Bentham argues that each man desires his own happiness. Each man's happiness is good for him. Therefore, general happiness is good for all. Bentham asserts that by nature man is egoistic and selfish. Man can be altruistic only when, by being altruistic he satisfies his own desire too. Here Bentham suggests the moral standard of "the greatest happiness of the greatest number of people." The moral standard is not the greatest happiness of one individual, but it is happiness of a number of

people. Bentham suggests the maximum happiness of maximum number of people. Bentham's doctrine of Hedonism becomes altruistic by the dimension of "Extent" and by Four Moral Sanctions. The transition from egoism to universalism is explained by Four external sanctions. According to Bentham, pleasure and pain are the prime, governing motives of human conduct. Our conduct is regulated by Four Sanctions. These sanctions imply higher powers viz. nature, the state, the society and God. There is a threatened penalty i.e. pain for disobeying the related laws. 1. Natural or Physical sanction i.e. consideration of health and fear of disease. 2. Political sanction i.e. fears of punishment by the State. 3. Social sanction i.e. fears of social boycott. 4. Religious sanction i.e. fear of Divine wrath or the justice of God. Due to these Four external Sanctions man sacrifices his extreme, selfish pleasures and thinks about pleasures of others i.e. general happiness. Man obeys the laws of Nature, the State, the Society and God as they operate through pleasures or pains for individual.

2.3.6 Mill's Refined or Qualitative Utilitarianism

The theories of Bentham and Mill have many common points. In some points Mill differs from Bentham. The Refined or Qualitative Utilitarianism can be summarized as follows: - The moral criterion is Utility or the greatest happiness principle. Actions are right, if they promote happiness. Happiness means pleasure and the absence of pain. Actions are wrong if they produce unhappiness. Unhappiness is pain and the privation of pleasure. Pleasure and freedom from pain are only desirable Ends. All other things like virtue, health, love of honor, wealth, power are desired because they promote happiness. Mill argues that "Desiring a thing and finding it pleasant are two names of the same psychological fact. To desire a thing without its being pleasant is a physical and metaphysical impossibility". Happiness is the only desirable end. Mill argues that we always desire pleasure therefore pleasure is

desirable. The sole evidence that anything is desirable is that people do actually desire it. All person desire happiness, so happiness is desirable. Mill holds that qualitative distinction among pleasures is as real as quantitative distinction. Intellectual pleasures are better than sensuous pleasures. Mill believes that we ought to seek satisfaction of higher capacities. The question arises, what is the test of quality? Mill leaves it to the verdict of competent judges. Those who are equally acquainted with both intellectual and sensual pleasures are competent judges. These judges prefer intellectual pleasures to bodily and sensual pleasures. In addition to the verdict of competent judges, Mill refers to man's "natural sense of dignity." No man would consent to be changed into the lower animals. Mill says, "It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied." Mill argues that each man desires his own happiness. Each person's happiness is good to that person. Therefore, the general happiness is good to all persons. So, general happiness is good to each person. In this way, Mill explains transition from egoism to altruism. Mill advocates that, "The moral end ought to be, greatest happiness of the greatest number." Mill further states that utilitarianism grows out of self-love. The law of transference of interest, changes self-love into sympathy or fellow feeling. Egoist man seeks pleasures of others, in order to relieve his own pains. Seeking pleasures of others is means to achieve one's own end i.e., pleasure. In the course of time, means and end are transferred and altruism develops from egoism. Mill accepts the sanction of morality as given by Bentham. According to Mill, there are external as well as internal sanctions. Natural, Political, Social and Religious sanctions are the external forces. Mill accepts fifth, Internal sanction of Conscience. Individual's own conscience controls selfishness and motivates altruism.

2.3.7 Criticism of Utilitarianism

1. Utilitarianism developed on the background of industrial revolution and in the framework of empiricism. Utilitarianism helped in eradicating established social abuses. The reforms in the interest of social justice were influenced by Altruistic hedonists. Their aim was to reduce the difference between individual happiness and common, general happiness.

2. Utilitarianism takes one sided view of human nature. Man is not only sentient creature, but he is also a rational being. Man has to satisfy his total nature rational as well as sensuous.

3. Utilitarianism wrongly identifies happiness with pleasure. Pleasure consists in the satisfaction of a single desire whereas Happiness means totality of the satisfaction of various desires.

4. Utilitarianism wrongly believes that pleasure is 'The Good.' Actually, pleasure is only one of the good things of life. Apart from pleasure, wealth, power, knowledge, beauty and virtues contribute to good life.

5. Utilitarianism confuses 'a pleasant choice' with a 'choice of the pleasant'. Pleasure is not the object of choice; it is accompaniment of choice.

6. Utilitarianism seeks satisfaction of desire. However, it does not tell us, how to integrate pleasures to lead a harmonious life.

7. Kant says that 'Ends do not justify means. The criterion of utility is an external criterion. The actions are evaluated by their consequences and not by the intention of the agent.

8. If pleasure is the supreme goal of life, it is our duty to perform the pleasant actions. But in actual life, we do perform goal-oriented actions without bothering about pleasure or pain.

9. Utilitarianism maintains that every individual seeks his own pleasure. So, a consistent hedonism can never lead to altruism.

10. Susan Stebbing says, "Mill is consistently inconsistent". Mills Utilitarianism commits following fallacies—

a) Mill says that pleasure is desirable because men do desire pleasure. Thus, he commits the fallacy of figure of speech.

b) Utilitarianism commits the fallacy of Composition while proceeding from individual happiness to general happiness. What is good of one individual is not necessarily good of the aggregate of individuals.

c) Utilitarianism commits the fallacy of Division while proceeding from general happiness to individual happiness. What is good for aggregate of individuals is not necessarily good for one individual.

d) Mills sanction of morality i.e., conscience is not consistent with the spirit of hedonism. Pursuit of pleasure and conscience often contradict one another.

e) According to G.E. Moore, Utilitarianism commits the Naturalistic Fallacy. A Naturalistic fallacy is committed when a moral concept is defined in natural, non-moral.

Check Your Progress

1. What is Utilitarianism?
2. How does Bentham introduce universalistic Hedonism in his theory?
3. What are the dimensions of pleasure?
4. What are sanctions of morality in Utilitarianism?
5. How does Mill introduce universalistic Hedonism in this theory?

2.3.8 Kant's view (Rationalism) and Mill's view (Hedonism)

Kant believes that the real universe is different from phenomenal world. He points out two functions of human reason. Kant gives importance to rational spontaneity rather than sensuous activities. He advocates rationalism in rigorous form. Kant's rationalism is different from hedonism. For hedonism, pleasure is the supreme ideal, whereas for rationalism, moral law i.e., the categorical imperative is the supreme ideal. Hedonism centers round the concept of good and evil whereas rationalism centers round the concept of right and wrong. Hedonism decides the worth of moral action on the consequences or intentions of actions. An action is good if it produces pleasure. Rationalism decides the worth a moral action on the motives behind it. An action is right if it arises from moral law i.e., sense of duty. Hedonism gives importance to inclinations. It aims at gratification of emotions and impulses. Rationalism gives importance to performance of duty. It aims at Kingdom of Ends i.e., domain of reason.

2.4 SUMMARY

Hume considers moral sentiments as the ground of moral decisions. Feelings play an important role in ethical actions. The rules of morality are not based on reason. He views sympathy as the fact of human nature on which all social life and personal

happiness is based. Hume emphasizes on Altruism i.e. one always aims at happiness of others and happiness of self.

Kant's moral theory advocates performance of one's duties as the highest good. He advocates Deontological view of morality. For Kant, moral law is categorical imperative that demands unconditional obedience. Moral law follows pure rational will i.e. practical reason. Kant states three principles viz. 1. Act on those principles which can be universalized. 2. Never treat humanity, whether in thyself, as a means only; treat it as end in itself. 3. Act as a member of Kingdom, of Ends. Kant's maxims of morality are forms, without any specific detail. (Autonomy of morality) J S Mill moral theory advocates greatest happiness of greatest number of people. He judges all human actions by their consequences i.e. pleasure or pain. So, Mill holds Teleological view of morality. J S Mill puts forth Utilitarianism which is a form of Ethical Hedonism. Utilitarianism is called as Universalistic hedonism. Utilitarianism seeks maximum pleasure of maximum number of people. Hedonism was introduced in Greek period. In modern times it appeared in Bentham & Mill's philosophy. In spite of many drawbacks Utilitarianism influenced social reforms. It created the awareness about the happiness of other people. The slogan of Utilitarianism, "the greatest happiness of greatest number" aroused the sense of social justice.

2.5 BROAD QUESTIONS

Q.1 Explain nature and origin of morality as discussed by David Hume.

Q.2 Critically discuss Kant's Categorical Imperative.

Q.2 Explain the features of Mill's Utilitarianism.

Q.3 Write short notes:

1. Kant's notion of Good Will.
2. Kant's views on the origin and importance of moral knowledge.
3. Kant's maxims of morality.
4. Paradox of Hedonism
5. Sanctions of Morality
6. Hedonistic Calculus / Dimensions of Pleasure.

Q. 4 State the differences:

1. Kant's moral theory and Mill's moral theory.
2. Hypothetical imperative – Categorical imperative.
3. Natural virtues and Artificial virtues.



Unit -3

ALTERNATIVE ETHICAL THEORIES.

UNIT STRUCTURE-

3.0 Objectives

3.1 Introduction

3.2 Augustine's view on Ethics.

3.2.1 Background

3.2.2 Introduction to St. Augustine

3.2.3 Notion of happiness and virtue

3.2.4 Love of God and Neighbour

3.2.5 Conclusion

3.2.6 Check your progress

3.3 Feminist Ethics – Carol Gilligan.

3.3.1 Background of feminist Ethics.

3.3.2 Distinction between “Ethics of Care” & “Ethics of Justice”.

3.3.3 Carol Gilligan's critique of Kohlberg's model of moral development.

3.3.4 Gilligan's independent study and evidence for ‘Ethics of Care’.

3.3.5 Critical evaluation

3.3.6 Conclusion

3.3.7 Check your progress

3.4 Existentialist Ethics : Jean Paul Sartre

3.4.1 Background of existential Ethics

3.4.2 Key concepts and principles in Sartre's ethical theory.

3.4.3 Sartre's argument against conventional and deontological ethics.

3.4.4 The ethic of authenticity

3.4.5 Critical evaluation

3.4.6 Check your progress

3.5 Summary

3.6 Broad questions

3.0 OBJECTIVES

- To understand non-conventional approaches toward Ethics.
- To be aware of the different ethical models given by non-conventional thinkers.
- To grasp the meaning and value of ethical models and develop the spirit of tolerance towards each one of them.
- To understand the final end of man.
- To see the application of various moral principles in day-to-day life

3.1 INTRODUCTION

It is a well-known fact that while evaluating moral actions of people, we apply certain theoretical standards, or concepts. The central concepts in the theoretical model are the result of conventional thinking, popular culture, time etc. However, some thinkers in the modern tradition have tried to critique and rethink such conventional moral themes and moral concepts. In this chapter we would be studying such ethical models, which not only criticise the traditional approach of ethics but also construct new, and very different approaches to ethical decisions, and ethical judgments.

These three approaches are 1) Eudaemonistic approach
 2) Feminist approach.
 3) Existentialist approach.

3.2 AUGUSTINE'S VIEW ON ETHICS-

EUDAEMONISTIC APPROACH

3.2.1 Background

In reaction to the consequentialism and deontology, virtue ethics has developed full-fledged accounts of virtue that can stand on their own merits. In this section we will study the eudaemonism developed by Augustine. The notion of eudaemonia, a key concept in ancient Greek moral philosophy, is interpreted as “happiness” or “flourishing” and occasionally as “well-being.” But every interpretation of this concept has its drawbacks. The problem with “flourishing” is that animals and even plants can flourish, but eudaemonia is realisable only by rational beings. The Problem with the concept of “happiness” is that in ordinary conversation, it implies something subjectively determined. It is for me, not for you, to express whether I am happy or not. If I think I am happy then I am because it is not something, I can be wrong about. The converse case is with being healthy or flourishing.

The concept of Augustine's Eudaemonia has a broader sense of happiness as consisting of the union of the soul with God after death, where one can see the Platonic influence on him. According to Aristotle every action has some aim. Every action aims at some good. Good is eudaemonia. Therefore, eudaemonia is the Happiness which is the name of the best kind of life and which is an end in itself.

In this chapter, we will study the idea of virtue ethics and its relation to eudaemonia. Virtue ethics advocates that living a life following virtue is necessary for eudaemonia. For Aristotle, virtue is necessary but not sufficient—what is also needed are external goods which are a matter of luck. According to Plato and the Stoics, virtue is both necessary and sufficient for eudaemonia. So, there is a relation between eudaemonia and virtue status on a character trait.

3.2.2 Introduction to St. Augustine

Saint Augustine of Hippo was one of the greatest Christian theologians and philosophers of the antiquity. Augustine was the one who brought the Christian religious scriptures into the moral philosophical context. Augustine was a prolific writer. But his works like Confessions, the City of God and The Trinity have been an enormous contribution in the field such as moral philosophy, philosophy of religions and philosophy of history. His most influential work, 'The Confessions', is unique in the ancient literary tradition and greatly influenced the modern tradition of autobiography. It is a fascinating piece of philosophy from the first-person point of view. His thoughts were influenced by Platonism and Cicero. Augustine is considered as the key figure of the 'doctrine of predestination'. Augustine was the first to develop a Christian philosophy of history. For Augustine, the most reliable knowledge is that of the inner being of man.

3.2.3 Notion of happiness and virtue

Let us first understand the meaning of the term virtue and its relationship with happiness. Virtue is popularly known as an excellent trait of character. To possess a virtue is to be a certain sort of person with a certain set of the mindset that guides a person's behavior. Virtue, therefore, an important guiding and balancing principle for a person's moral and rational outlooks.

Concerning happiness, it is claimed that happiness is a product of virtue. Most versions of virtue ethics agree that living a life following virtue is necessary for eudaemonia. Therefore, all those who desire happiness in their life, they should live their life according to virtue. Augustine regards ethics as an inquiry into the *summum bonum*: the supreme good, which provides the happiness which all human beings seek. In this way, Augustine's moral thought comes closer to the eudaemonia virtue ethics of the classical Western tradition. But there is a substantial difference between St. Augustine and his predecessors about the idea of virtue and happiness. For example, in Aristotle's moral philosophy, virtue stands for activities by reason, is necessary but not sufficient for happiness—what is also needed are external goods which are a matter of luck. For Plato and the Stoics, virtue stands for the right reason, which is attainable through philosophical excellency, is both necessary and sufficient for happiness.

In contrast to the above views, Augustine conceived virtue as the love of God or, in later texts, as the love of God and neighbors. For him, happiness stands for the union of the soul with God after death. Augustine, therefore, distinguishes between true (i.e., Christian) virtue that is motivated by the love of God and "virtue as such" that performs the same appropriate actions but is guided by self-love or pride. Further, he put that true virtue guarantees true happiness, but there is no true virtue that is not a gift of the grace of God. He took it as axiomatic that happiness is the ultimate goal pursued by all human beings. Happiness or the good life is brought about by the knowledge of the greatest good in nature which humans can attain and that one cannot lose against one's will.

Even though Augustine postpones the happiness that is the reward of virtue to the afterlife, he does not make virtue merely a

means to an end in the sense that virtue becomes superfluous when happiness is reached. On the contrary, he insists virtue will persist in the form of love. Subsequently, it will indeed be its reward and identical with happiness.

3.2.4 Love of God and Neighbours-

The idea of Love of God is a very significant and the underlying notion of Augustine's ethics. This is often directly associated with the concept of virtue and plenty of times it is used interchangeably with a will or intention. For Augustine, love encompasses a force in our soul that attracts us to the true beauty we find in and above ourselves, which drives us to ascend from the sensible to the intelligible world and also the cognition and examination of God.

Augustine was deeply influenced by the biblical command of love of God and neighbor. Love is by its very nature, self-reflexive. Jesus Christ's command about loving our neighbors automatically restrains us from instrumentalizing our fellow human beings. Elaborating on this command, Augustine explains that we must love our neighbors as a human being, for his/her intrinsic worth, not for some pleasure or advantage that we hope to derive from him.

But Augustine also suggested a notorious parallel between ends and means on the one hand and love of God and one's neighbor on the opposite. Augustine recommended that God the Holy Trinity is alone a proper end, while one's neighbor can be used as a means. This view seems contradicted by the earlier one. There we find his assertion that God alone is to be loved for his own sake and all other human beings are to be loved for the sake of God. The comprehensive understanding of the term, to be loved for the sake of God 'i.e., to be used' this term employed by Augustine can help us to resolve the contradiction of this term 'use.'

He didn't use "use" in the sense of manipulation; Rather, he taught us that we should love people for who they are as well as for the sake of God. In this sense, the love of God and the love of neighbors are co-extensive and, ultimately, identical.

Augustine differentiates between lust and love. For him, love means the impulse of one's mind to enjoy God on his account and to enjoy oneself and one's neighbor on account of God. And lust means the impulse of one's mind to enjoy oneself and one's neighbor and any material thing not on account of God.

3.2.5 Conclusion-

Augustine defines the doctrine of the human being's radical dependence on the grace of God and philosophy as the love of wisdom, i.e., an attempt to pursue happiness by seeking insights into the true nature of things and living accordingly. For Augustine wisdom is the highest stage of knowledge. He defined virtue as rightly ordered love. For Augustine, virtue must never be allowed to supersede God as the supreme good, as the sole good to be loved purely for its own sake and without reference to any higher good. Augustine believes that love is at the center of our moral life. However, we should be cautious about what we love because we may also love the things that we think are good but lead us to evil. Philosophy and theology both are intricately intertwined in his thought. Augustine gives importance to introspection over sense perception. He is practical in his approach. For him, Ethics focuses on the attainment of happiness. He considers ethics as a study for the supreme good, giving contributions to the happiness of everyone.

3.2.6 check your progress-

1. Discuss Augustine's view on virtue and happiness.
2. Explain the importance of love of God in Augustine's Ethics.

3. How does love of God is identical with love of neighbours?
Discuss.

3.3 FEMINIST ETHICS: CAROL GILLIGAN

3.3.1 Background of Feminist Ethics

Feminist Ethics is an attempt to revise, reformulate or rethink traditional Ethics. Feminists have developed a wide variety of gender-centred approaches to ethics. For ages, ethical thinkers have talked about two great moral imperatives. 'Justice 'and 'love'. The concept of 'love 'is replaced by the concepts of 'goodness', 'utility 'etc. Carol Gilligan, like a few other feminists, has emphasised issues related to women's traits and behaviours, particularly their 'caregiving ones'. Gilligan's ethical theory is essentially based on the "communal nature of women." The theory is titled as the ethic of care as against the typical conventional male oriented ethic of justice.

3.2.2 Distinction between 'ethic of care 'and 'ethic of justice'.

According to Gilligan under the ethic of justice, men judge themselves guilty if they do something wrong. Whereas under the ethic of care, women are reluctant even to judge the action. This reluctance to judge itself may be the indicative of the care and concern for others. Thus, women not only define themselves in a context of human relationship but also judge themselves in terms of 'care and concern'. As a result of this woman's judgement, her moral deliberations become very different. Her voice is different Gilligan, however, hasn't called it a woman's voice, but different. voice, since she doesn't want to make this theory gender biased and wants to suggest that there may be different ways of looking at moral behaviour.

Gilligan further brings out the distinction between 'ethic of care' and 'ethic of justice'. In her view the quality and quantity of relationships is of great importance in both the systems. Individual rights, equality before law, fair play, a square deal – all these goals can be pursued without personal ties to others. Justice is impersonal. Whereas sensitivity towards others, loyalty, responsibility, self-sacrifice and peace – making all these reflect interpersonal involvement. Care comes from connection.

3.3.3 Carol Gilligan's critique of Kohlberg's model of moral development.

Gilligan worked closely with Kohlberg at Harvard. But she was not at all happy with the method used by Kohlberg, to measure moral sophistication of young men, she became uncomfortable with the way women are categorised in his model of development.

The hypothetical ethical dilemmas which were given to the subjects (young men later on to women) by Kohlberg were quite like mathematical problems. Plugging the right lever fetched so called "right" answers.

Women, however, were uncomfortable responding to hypothetical dilemmas. They asked for more information about the characters, their history, and their relationships. Rather than giving the "right" answer, women try to resolve the situation. This isn't the sign of moral immaturity but different ethical orientation of women.

According to Gilligan, Kohlberg is simply one of many traditional thinkers (Like Freud) who have viewed women as morally inferior to men. Gilligan raises certain fundamental questions about Kohlberg's 6 ladder model of moral development. She says can we regard the Kohlbergian model as universal, invariant, hierarchical and final? She asks, why, in the

kohlbergian schemes of things, women rarely climb past stage Three whereas men routinely rise up to 5th stage. Gilligan believes that this doesn't mean women are less developed than men but rather, it suggests the moral scheme developed by Kohlberg and the methodology used by him requires thorough critique.

3.3.4 Gilligan's independent study and evidence for the "ethic of care".

Gilligan believes that Kohlberg's methodology is male-based. Its ears are turned to male not female moral voices. It fails to register the different voice, Gilligan claims to have heard in her study of twenty – nine women reflecting on their abortion decisions. On the basis of this study, Gilligan arrives at the ethical model consisting of 3 levels.

1) Orientation to Individual Survival – (Pre-conventional Morality)

At this level, women who sought an abortion were 'self-centred' and were looking out for themselves. They were focusing on the thought of whether they 'want' or 'do not want' the pregnancy. They had their own reasons for terminating the pregnancy.

2) Goodness as self-sacrifice. (Conventional Morality)

According to Gilligan instead of level 1 selfishness conventional feminine morality is self-less. Women at this level define their moral worth on the basis of their ability to care about others. Such women are (as opposed to 1st level) oriented towards others. They search for solutions whereby no one would get hurt, and in the deal, they don't mind becoming the victims of the situation. They think pleasing the significant others in life, i.e., caring for them is more important than what you think. In the present study women terminated pregnancy to please someone else.

3) Responsibility for consequences (Post conventional Morality)

Writing within the framework of care ethics, Gilligan emphatically states that the “the essence of moral decision is the exercise of choice, the willingness to take responsibility for that choice. In her study women who had reached at this level, who were contemplating abortion, this meant recognising that great hurt was inevitable in either of the choice, whether they continued the pregnancy or terminated it. However, such women made an effort to take control of their lives by admitting the seriousness of the choice and considering the responsibilities very seriously.

The criterion of judgement thus shifts from self-centredness to goodness & care for others again towards fully assuming the responsibility & caring for others. But we can see this growth not on the basis of the appearance in the eyes of others, but in terms of the realities of its intentions and consequences.

Gilligan further supports her theory with research of children at play (with Janet lever) Lever found that boys like games with lots of intricate rules. Girls, on the other hand, play shorter & less complex games. They are also ready to mend rules for others. Gilligan believes that this difference carries over into adult life. Women change the rules in order to preserve relationships: men abide by the rules and see relationships as replaceable.

Moreover, Gilligan maintains that differences of identity shape the selection of moral perspective, the link between gender and moral judgment is very strong during the teenage, when young men & women are highly self-conscious. ‘Justice ’is ultimately moral maturity, usually for men and “care”, is the ultimate responsibility usually for women.

3.3.5 Critical Evaluation

1) Reinforcement of cultural stereotypes about Men & Women.

Gilligan's ethical theory is criticised by pointing out that, in an attempt to establishing different voices, is she really rethinking the conventional understanding of morality or she is indirectly re-establishing gender-typification, i.e. Men Vs Women?

2) Double standardness of ethical values.

Many ethical theorists are disturbed at the idea of a double standard morality. i.e., justice for some & care for others. Moral philosophy has never suggested different ethics for different groups. Such a situation is likely to create a 'chaos' in the society. However, Gilligan claims that 'moral flexibility' needn't be labelled as a moral chaos.

3) Gap between the research the theory

Many social scientists criticise the thin research support which Gilligan offers to validate her theory. e.g., the small research sample of 29 in the "abortion study" can hardly justify the tall claims of 'ethics of care'.

However, Gilligan points out that even Freud's, Piaget's & Kohlberg's researches were based on biased samples.

3.3.6 Conclusion-

Care focused feminist approach to ethics of Gilligan doesn't impose a single normative traditional standard on women, rather it offers to women a different way to understand the way in which genders, class etc. affect their moral decisions.

3.3.7 Check your progress

1. Distinguish between "ethic of care" and "ethic of justice".
2. How Gilligan criticised Kohlberg's ethical model?

3. State the 3 levels of morality propounded by Gilligan in the framework of care 'ethic'.
4. Critically consider the ethics of care.

3.4 EXISTENTIALIST ETHICS: JEAN PAUL SARTRE

3.4.1 Background of Existentialist Ethics

Existentialism is widely considered to be the philosophical and cultural movement which holds that the starting point of philosophical thinking must be the individual and the experiences of the individual. Existentialists generally believe that traditional systematic or academic philosophies are too abstract and away from concrete human experience.

Jean Paul Sartre is one of the best-known philosophers and a great existentialist of the 20th century. He is often regarded as the father of Existentialist philosophy. In his most famous lecture "Existentialism is Humanism" (delivered to the Parisian crowd on 28th Oct. 1945) Sartre in an extremely lucid (simple) style has discussed the existentialist theory of Ethics.

Keeping 'human experience', at the Centre, this ethical theory views ethics in a totally nonconventional manner, Sartre's unique forceful style of writing directly appeals to any genuine reader. (irrespective of time, space).

3.4.2 Key concepts and principles in Sartre's ethical theory

1) Existence precedes essence.

Man, first of all just exists. Man encounters or sees himself in this world and defines himself afterwards. Man, simply is. After realising his existence man starts willing and then becomes what he wills. This man is nothing but what he makes of himself.

2) Subjectivity of Man

According to Sartre 'man' is a project which possesses a subjective life. This subjective life precisely makes man different from other objects of the world. (may be animate or inanimate) Man alone is capable of willing and becoming. In other words, man is alone capable of choosing a mode of action over the other. Man, alone is capable of making a conscious decision. Subjectivity of man is nothing but this human condition by which he constantly becomes new, through his choices.

3) Man, in complete possession of himself

What follows directly from the principle of subjectivity is man's possession of himself / herself. In other words, man is totally responsible for what he is and what he becomes. Man keeps willing & keeps on making choices. His existence is renewed every time through these decisions, made by him. Needless to say, he alone is responsible for his decisions and his life.

4) Universality involved in subjectivity

In view of Sartre, the word "subjectivism" is to be understood in two senses. One is already mentioned above i.e., the freedom of the individual subject. Second is an individual's limitation to go beyond human subjectivity. This is the deeper meaning or contention of existentialism. In simple words when a man chooses himself, it implies that everyone must choose himself and in doing so he is also choosing something for all men. This is so because while making a choice an individual tends to make the best choice, since we are unable to choose the worse. As such naturally a man prefers a particular value over the other and creates a particular image of himself which may suggest a value while choosing alternatives for all men. e.g., If I desire to get married & have a family, then I am committing, not only myself, but humanity as a whole, to the practice of monogamy.

5) Experience of 'anguish'

"Anguish", is the concept which commonly occurs in existential writings. It is generally held to be a negative feeling arising from the experience of human freedom and responsibility. An archetypal example is often given in this context. It is the experience when one is standing on a cliff where one not only fear falling off it, but also dreads the possibility of throwing oneself off. In this experience "nothing is holding me back." One senses the lack of anything that predetermines one to either throw oneself off or to stand still and one experiences one's own freedom.

However, it is important to note that not every choice is perceived as having dreadful possible consequences, but that doesn't change the fact that every action proceeds through freedom. In view of Sartre, anguish becomes more intense, when a man realizes that when he is choosing a particular action, over the other, he is doing it for the entire mankind. To quote Sartre "—Every man ought to say," Am I really a man who has the right to act in such a manner that humanity regulates itself by what I do."

6) The notion of 'despair'

The word 'despair' is generally defined as '—loss of hope'. In existentialist ethics the word 'despair', is more specifically related to the reaction when an individual starts weighing the possibilities involved in a particular decision, which is going to affect his 'self or identity'. e.g., An army chief orders to attack. An individual is likely to feel despair because there is no God or any divine voice to guide the right path of action and hence the whole responsibility of an action lies on that person.

7) The notion of Abandonment God doesn't exist, and whatever logical consequences are likely to be drawn from this are necessary

to be drawn. To quote Dostoevsky, - "If God didn't exist, everything would be permitted."

It follows from this, that man is left alone without any excuse to behave in this or that fashion. Hence Sartre declared " –Man is condemned to be free." Precisely from the realization of Abandonment the feeling of despair arises.

3.4.3 Sartre's argument against conventional deontological & Consequential ethics

In order to bring out the case of existential ethic of human freedom and free self-commitment, Sartre demonstrates the futility of conventional ethic of deontology and consequentialism, which have dominated the world of moral philosophy for the past two centuries.

Ethic of Deontology

The word deontology is derived from the Greek word "duty". Deontologists argue that I ought to perform those actions which are my duties and avoid those which are not my duties. It is by focusing on the intrinsic character of the act that I ought to be guided by Kant's ethics of imperatives, is the typical example of de ontological ethics. Ethic of consequentialism (Result oriented)

As the name suggests (as opposed to deontologists) consequentialists argue that we ought to decide how to act by reference to the consequences of the various courses of actions open to us. In other words, from the various alternatives available to me, I ought to select that act which has the best consequence. Utilitarian Hedonism is the typical example of result-oriented ethic. (Since it focuses on the maximum amount of happiness for the maximum number of people.

With the example of a young man, (who is confronted with the dilemma of whether to join the Army or to stay with a mother who is totally dependent on him). Sartre shows how both the conventional systems of ethics can't guide him. He further states that even the instincts or sentiments of ethics can't guide him. He further states that even the instincts or sentiments of the young man, about his mother or motherland cannot guide him, beyond a point to take the actual decision. The young boy then realizes how he is condemned to be free and how he has to assume the responsibility of choosing one alternative over the other.

3.4.4 The ethic of authenticity

The ethic of authenticity is at the very heart of existentialism. It emphasises the absolute character of the free commitment by which every man realises himself in realising a type of humanity.

Sartre very emphatically states that "Freedom," "Choice", and "Self-Commitment.", are the three pillars on which the ethic of authenticity is erected.

He further states that what is not possible for any individual is not to choose. Because not choosing anything, itself is a choice. When he makes a choice, naturally the complete responsibility of that action lies on him, and precisely through this man goes on achieving his 'new identity'.

Sartre compares the moral choice with the construction of a work of art. Does one ever ask what is the picture that he ought to paint? As everyone knows there is no predefined picture for him to make; We are in the same creative situation. When we are confronted with a moral choice what action he will choose isn't predetermined and can never be predetermined.

Sartre takes this analogy a step further and maintains that as a painting is just one 'episode' in the entire life of the painter, so is the moral action, but one action in the life of the moral agent. As we cannot say before the painting that it is going to be good or bad so we cannot say about the action as well.

The only caution which Sartre gives in this context is "bad faith". Bad faith is self-deception." To believe that I am not free, 'or I am forced to do a particular action, 'is nothing but "Self-deception," One should not fall in "bad faith".

3.4.5 Critical evaluation

1) Quitism of despair

According to some thinkers existential ethics gives people a kind of license to remain in the state of despair or hopelessness. Sartre has very effectively answered this criticism. The essence of which may be stated as, despair isn't the final destiny, but it is just one stage in the ethic of authenticity, which every individual has to overcome through making a choice and through self-commitment.

2) Man in isolation

Existential ethic Considers man in isolation. Man has alienated himself from his society and culture, and as if his decisions are not having any effect on others. Again, Sartre points out that, while making a decision, a man is committing for the entire humanity and not for him alone.

3) Danger of loss of moral order leading to chaos in society. If each individual who is condemned to be free decides to choose as per his whims and fancies ignoring the eternal human values; then human society may witness moral chaos.

The ethic of authenticity never says ignore the conventional values but it only recommends to make a conscious choice and then remaining committed to it. To conclude we may say that Sartre supports existentialist humanism.

3.4.6 Check your progress

1. • What is the meaning of the ethic of Authenticity?
2. Distinguish between Deontological and consequentialist views of ethics.
3. Describe the key concepts of Sartre's ethical theory.

3.5 SUMMARY

As stated in the introduction, this chapter has given us insight into three important non-conventional systems of ethics. Augustinian ethics has given a different approach to Eudaemonistic ethics in the Middle Ages, by synthesising Christianity with Philosophy. Feminists have developed a wide variety of gender-centred approaches to ethics. Carol Gilligan's care ethic is one such example. Sartre's existential ethics have dominated the 20th century and especially the field of moral philosophy. Even though both the systems have been criticised by the thinkers, it is more than evident that they are the result of original thinking and intellectual boldness. They also commonly underline one fact that we need to question whatever is just given to us and weigh the various options in life if we really want to emerge as genuine moral beings.

3.6 BROAD QUESTIONS

- Q1. Explain Augustine's view on Ethics.
- Q2. Explain and illustrate Sartre's ethic of authenticity.
- Q3. Critically evaluate Gilligan's 'ethic of care'.

Q4. Write short notes on: -

- Gilligan's 3 level model of feminine morality.
- Gilligan's criticism of Kohlberg's theory of morality.
- Notice of 'Anguish' and despair.
- Concept of subjectivity.
- Notion of Love of God.
- Moral Action as a piece of Art.

Q.5 State the differences

- Ethic of care and ethic of Justice.
- Deontological ethic and consequential ethic.



Unit -4

THEORIES OF PUNISHMENT

UNIT STRUCTURE

- 4.0 Objectives
- 4.1 Introduction
- 4.2 Distinction between sin, crime and punishment
- 4.3 Need for Punishment
- 4.4 Theories of Punishment
- 4.5 The Retributive Theory of Punishment
- 4.6 The Deterrent or Preventive Theory of Punishment
- 4.7 The Reformatory or the Educative Theory of Punishment
- 4.8 Rule of Law and Justification of Capital Punishment
- 4.9 Summary
- 4.10 United Questions

4.0 OBJECTIVES

- To understand the meaning of punishment
- To understand the need and justification of punishment in society
- To be aware of the difference between different theories of punishment
- To be able to decide whether civilized society needs capital punishment or not

4.1 INTRODUCTION

It is a fact of life that when man progresses towards a moral ideal, he often commits mistakes either deliberately or unknowingly.

Such moral lapses (errors) may be considered either from an inner point of view as flaws of character – or from an outer point of view – as the violation of laws, resulting in evil deeds or moral sickness or moral ill health. It implies that in morality, we do not have consistent progress, moral perfection or moral health. The evil or vice present in the individual, may result either in sin or crime. In that case punishment is necessary as a remedy for this offence or sickness. Punishment is imposed because some person has done wrong. In the legal context this is called a crime or offence and in the theological context it is called a sin. The two terms are by no means interchangeable. The problem of punishment is a problem which belongs to moral pathology.

There are various reasons why crimes are committed:

1. Ignorance of law
2. Influence of passions or impulses – a person may be so much overcome by anger, lust or revenge, that he breaks the law even when he knows that he will attract punishment.
3. According to Mackenzie, every individual lives in the universe of desires. When the universe is very narrow to include the individual himself or at the most, his family members, he has no regard for the desire and wishes of others. Such an individual is likely to commit crime. As the universe becomes wider and wider and includes more and more individuals, the individual is less likely to commit crime. Punishment is necessary for various reasons:
 1. It teaches an individual not to commit the same crime again. It also sets an example for others in society.
 2. It helps in reforming the character of the individual.
 3. It is a natural demand of our conscience. It desires that people who commit crimes be punished because they are acting against humanity.

4. The State can ensure peace and order in society only if the laws are powerful and obeyed by people for fear of punishment. Without punishment, laws will be like commandment.

4.2 DISTINCTION BETWEEN SIN, CRIME AND PUNISHMENT

Let us distinguish between sin, crime and punishment. Sin is a wrong overt action. It is a trait of inner character. Sin is an evil deed. It is wilful violation or neglect of duties. It is either the commission of wrong deeds or omission of right deeds. We are never lacking in good intention. But we may not have the strength of will to convert them into overt acts. Bad intentions also are frustrated by infirmity of purpose and do not issue evil deeds. And thus, they are harboured in the mind and stain the inner character. If they issue in deeds, sometimes they exhaust themselves. Thus, a good intention is not so good as a good act, while a bad intention is on the whole, worse than a bad act.

Crime, on other hand, is said to be committed, when the laws have been violated. It involves punishment by an objective authority such as the State or government, appointed by the court of law. Crime thus refers to the offence against society, which are recognised by law and liable to be punished. Ingratitude e.g., would be a sin and not a crime. Murder or stealing is a crime. That is why T S Eliot writes in his 'ElderStatesmen', "Whereas crime is in relation to a law, sin is relation to a sinner".

Punishment: A crime ought to be punished. One who suffers wrong is not degraded. His soul is not hurt by it. But one who does wrong lowers himself in the scale of moral perfection. A man is rewarded for his good deeds and similarly a man should be

punished for his evil deeds. If a criminal has deliberately broken the moral law, the majesty and the authority of the moral law demand that he ought to be punished. "Punishment is the just retribution for deliberate breach of moral law". Wrongness of the act is brought home to the criminal by punishing him. This is the ethical justification of punishment.

4.3 NEED OF PUNISHMENT

In our society, we reward a man who does good deeds. We give prizes and awards to a student who does all good actions, right behaviour by following discipline. Thus if an action of a man is right we praise, if it is wrong, we censure it or punish the man. Just as a man is rewarded for his good deeds, similarly one should be punished for one's evil deeds and actions.

Human being is rational and therefore he is more free and capable of choosing his acts. He is responsible for the fruits that are to follow from the selection of his acts. Because man chooses voluntarily evil acts or because he chooses to violate the moral law for ulterior motive, he should be punished. We punish a criminal not to give him pain but to improve him, prevent him and reform him. Thus, the aim of punishment is better and hence punishment is justifiable.

Punishment is often known as a kind of negative reward paid to the criminal. Because if we do not punish the criminal, then there will be no harmony, equity and uniformity in society. There will remain no respect for moral laws and moral persons. Moral laws will look like a type of advice possessing no value. Therefore, in order to preserve the majesty, supremacy, authority and dignity of moral laws – a criminal should be punished because an offender

deliberately violates the moral law and disregards the authority and supremacy of moral laws.

The offender ought to be punished from an ethical viewpoint. Punishment will make him aware of the dignity and majesty of moral laws. Hence from the ethical point of view, our desire is to improve him by vindicating the majesty and supremacy of moral laws. Therefore, we can say that punishment is ethically justifiable.

It stands to the reason that if a good act deserves to be praised or rewarded, then a bad act should be punished. According to Anthony Hew punishment implies following things:

1. It should be given for an offence – injuries can be forgiven; crimes can only be punished.
2. It must be the work of human beings – a personal agency (evils occurring as a result of misbehavior, but not only by human agency, may be called a penalty – not punishment. Thus V.D. (A kind of disease) must be a penalty for sexual promiscuity not punishment (through a believer in personal God, it might appear as punishment).
3. Punishment is to be imposed by an objective authority, because of the violation of the law or rule. But direct action by the wronged person is revenge, not punishment. Thus, discussing the problem of punishment, three things must be kept in mind.
 - Meaning and definition of punishment
 - General justifying aim of punishment
 - Distribution of punishment, which includes the question of liability who should be punished (children, mentally ill, those who are forced, threatened or compelled to do wrong acts may be excluded) and how much of the punishment have to be given. It must be remembered that ignorance of law cannot be given as an excuse for avoiding punishment. A murderer cannot tell that he

did not know that killing was wrong, nor can a man claim to be excused saying that he did not know that driving under the influence of liquor was wrong.

Of the above three aspects of punishments, we should concentrate on the second aspect, the justification of punishment. What is sought to be achieved by punishing an individual? What should be the aim of the punishment?

Check your Progress

1. Differentiate between sin and crime?
2. State the reasons for crime to take place.
3. . Do you think that punishment is essential for a person who commits crime?
4. Give the ethical justification of punishment
5. Do you associate punishment with negative reward? Justify.

4.4 THEORIES OF PUNISHMENT

- There are three main theories of punishment:
- Deterrent (or Preventive) theory, believes that punishment is given, so that potential criminals can learn a lesson and not commit the same crime again.
- Retributive theory believes that punishment is given, because it is deserved and for no other reason.
- According to the Reformatory (or Educative) theory Punishment is given to reform the criminal. Each theory has its own basic principle. The first order principle of Deterrent theory is to maximize the total amount of happiness in society by reducing the crime rate, that of Retributive theory is justice and the basic principle of Reformatory theory is to make the criminal a morally better individual.

- Deterrent
- Maximum happiness of maximum number of people
- Punishment
- Retributive
- Justice
- Aristotle, Kant, Hegel
- Reformative
- Reformation of the criminal

4.5 THE RETRIBUTIVE THEORY OF PUNISHMENT

The Retributive theory believes that punishment must be inflicted because it is deserved and no other reason. The first principle is justice, and the assumption is that if a right act has to be rewarded, a wrong act must be punished, for punishment is simply the reward of the wrong act. By punishing the wrong doer, we are treating him as equal. A retributive theory sees the primary justification in the fact that an offence has been committed which deserves the punishment for the offender. That is why Kant, a deontologist, (a deontologist is one who believes that an action is right or wrong in itself, irrespective of the results it produces) also argues that retribution is not just a necessary condition for punishment but also a sufficient one. Punishment is an end in itself. Retribution could also be said to be the 'natural' justification, in the sense that man thinks it quite natural and just that a bad person ought to be punished and a good person rewarded.

Aristotle and Hegel are of the opinion that punishment is a kind of negative reward paid to a criminal. Hegel says that violation of moral law is the demand for punishment and hence we should punish a criminal. Punishment follows as a fruit of his evil deeds.

Just as virtue is rewarded, a crime should be rewarded in a negative manner. Thus, punishment is a negative reward.

Bradley says, “We pay the penalty because it is merited by wrong. It is a gross immorality, a crying injustice. Punishment is inflicted for the sake of punishment.

Some people do object by arguing that punishment is the hidden passion of taking revenge. But punishment is not revenge as revenge is due to personal prejudices, grudges and malevolence. A court awards punishment to a criminal with strict impartiality and according to the law. We punish a criminal for justice and not out of any personal malevolence.

Retributive theory is of two kinds:

- a. Rigoristic theory: Rigoristic view believes in punishing a criminal according to the character of the crime. This theory does not take into consideration the circumstances, while punishing a man. The motto of the view is “ –eye for an eye” and “tooth for a tooth”. We should give punishment equal to the nature of crime irrespective of any other circumstances. e.g., A man who has killed a person should be hanged to death irrespective of any other circumstances.
- b. Mollified theory: Mollified view takes into consideration the character of an offence as well as the circumstances. We refer to circumstances which compelled a criminal and also the character of a crime for e.g., we consider the age, economic and social condition, mental state, intention and the provoking circumstances into consideration before we punish a criminal.

CRITICISM:

The above discussion on punishment may give an impression that the retributive theory believes in inflicting pain and encouraging wicked emotional revenge. This is far from the truth.

But let's take each objection separately. In Spite of strong support from the philosophers, Dean Rashdall (being the man of church) opposes this theory.

1. Rashdall says Retributive theory is unchristian and unethical in character, because it encourages revenge. He feels that the theory is based on the law of "eye for an eye and tooth for a tooth". But Rashdall is mistaken. Had we been living in primitive societies then his objection should be valid. But today it's not the injured party that metes out punishment. Today justice is given by the third party, an objective court of law which need not experience any feeling of revenge. As one writer puts in "such a court simply accords to a man what he has deserved. He has committed a crime and it is reasonable that punishment should come upon him as wages of his sin". Revenge is different from the feeling of the righteous indignation, revenge is private, personal, and it requires no authority of any person or institution over another whereas punishment requires a whole system of authorities.
2. Secondly Rashdall points out, the theory does not work in the case of hardened criminals, for sometimes, the more they are punished, the more determined they are to commit crimes - they will only take care to see that they do not get caught. This is true to a large extent, but that in no way shows that it is the drawback of the theory. As it has been said earlier - the theory is deontological - not concerned with the consequences - it may or may not work in the case of hardened criminals - but that is not its concern. The theory only wants to see that justice is done - if the good are to be rewarded, the wicked must be punished.

3. Rashdall also feels that the theory is not satisfactory, because crimes often spring from mental disorder or diseases, and a disease requires treatment not punishment. But the objector forgets that every crime does not spring from a disease. Many crimes such as murder, rape are committed deliberately, cold bloodedly after careful planning, knowingly and wilfully. Besides, even granting for the sake of argument that crimes do not spring from a disease, it is possible that in some cases punishment must be a form of treatment.

To conclude Rashdall says that we can't exactly judge punishment in equal proportion to the crime. There is absolutely no commensurability between them, yet we can say that this theory is sound and useful theory so far as moral law (from an ethical viewpoint) is concerned.

Check your Progress

1. State the basic principle of Retributive Theory of Punishment.
2. What is Kant's argument with regard to retributive theory of punishment?
3. Give the opinion of Aristotle and Hegel in connection with punishment.
4. Point out the differences between rigorist and mollified view of punishment.
5. Give any two opinions of Rashdall for his opposition to Retributive Theory of Punishment.

4.6 THE DETERRENT OR PREVENTIVE THEORY OF PUNISHMENT

The Deterrent theory of punishment is utilitarian in nature, for it believes that man is punished, not because he has done a wrong

act or committed a crime but in order that crime may not be committed. It is best expressed in the word of a judge, who famously said, "You are punished not for stealing sheep, but in order that sheep may not be stolen". By making the potential criminals realize that it does not pay to commit a crime, the Deterrent theory, hopes to control the crime rate in the society, so that people may have a feeling of security. The first order principle is maximum happiness of the maximum number of people in the society. Jeremy Bentham is the promoter of this theory.

This theory will be effective if the central conditions are fulfilled:

- a. Every crime must be followed by a punishment, i.e., no criminal should escape punishment, only then the potential criminal will think twice before committing a crime.

- b. Though the punishment should be in proportion to the crime, sometimes a slightly severe punishment be given to serve as a deterrent.

- c. There must be a minimum of the time gap between the crime committed and punishment followed. This is the only way to ensure that the impact of punishment is felt by members of the society, for justice delayed is justice denied.

- d. Wide publicity should be given to punishment that follows the crime. This can be done through various mass media, such as talk shows, newspapers, films, TV, etc. It is only then that the prospective criminals will realize that it does not pay to commit a crime.

This theory also recognizes capital punishment or hanging one to death. This theory has certain defects:

1. This theory is not tenable, because a criminal is punished so that others do not repeat the act. Here instead of reminding the majesty and supremacy to criminals, we punish him for the future good of society. Our aim of punishment should be to educate and at the same time to make him once again aware of moral laws and its supremacy.

2. This theory treats human beings as a means. For punishing a person, we treat him as a means or a thing or an instrument to prevent others from doing similar crimes, so the aim of punishment is not purely ethical. From the ethical point of view, we should treat every human being as an end in himself but never as a means.

3. In this theory all individuals are punished to set an example to other potential criminals. That means if at all, they desist from committing crimes it is because they are afraid of being punished. But fear of punishment is a non-moral motive. It means when there is no punishment there is every possibility that an individual may commit crime.

4. The purpose of the theory is to deter potential criminals. It is quite possible that in trying to achieve this aim, it may make the punishment severe, acting on the assumption that the more severe the punishment, greater is the deterrent effect. Thus, the theory tends to be a cruel theory, for the punishment may not be in proportion to the crime.

The deterrent theory also is not a very satisfactory theory of punishment.

Check your Progress -

1. State the nature of deterrent theory of punishment?
2. What is meant by 'justice delayed is justice denied'?
3. State any two defects of deterrent theory of punishment.

4.7 THE REFORMATIVE OR THE EDUCATIVE THEORY OF PUNISHMENT

Having considered the two theories Retributive (where punishment is given simply because it is deserved and for no other reason) and the Deterrent (according to which the criminal is punished so that other potential criminals may deter from committing those crimes) we now discuss the third theory, the Reformatory theory.

As the name suggests, punishment is given for the purpose of reforming the criminal. This is the first order principal, so the theories like the Deterrent theory are out. The supporters of this theory believe that a man commits a crime because, either he is ignorant, or because he has done a wrong, he may be in position to improve. In western countries therefore the prison chaplain visits the criminal in prison, explains to him the difference between right and wrong, with a hope that once he understands this, he will refrain from doing the wrong. But perhaps this appears to be too optimistic, but the supporters are convinced that it is possible to reform a criminal, and that punishment is one of the ways of doing it.

Traditionally, Plato has been regarded as the father of the Reformatory theory and his position can be summarized in the following three positions:

1. The state is related to the delinquent as parent to a child.
2. Wickedness is a mental disease.
3. Punishment is a moral medicine for wicked acts, and however unpalatable it may be, it is absolutely necessary.

The magistrate thus acts as the physician of the soul and tries to solve its morally sick wrong doer. This may sound very edifying, but how close is the analogy between the working of the medicine and surgery on the body and working of the punishment on the mind and character. Can moral improvement be brought about this way? When we punish, we mean to hurt and cause pain, mental if not physical.

How will this pain and suffering, transform the mental disposition of the man and make him a better individual? On the contrary it may lead him to lose his self-respect and stifle his moral aspiration, which would make him a hardened criminal. As one writer says, to propose the punishment and to reform by the same operation, is like treating a man with pneumonia by first stripping him naked and in that condition making him stand all nightstand in the snow and then getting a doctor to administer his cough.

This theory also holds that most of the crimes are due to pathological phenomena i.e., one commits crime due to some mental deficiency or insanity or physiological defect. Therefore, criminals ought to be cured and ought to be reformed. Mental diseases and physiological defects compel the human beings to an offence for e.g., A man suffering of homicide impulse has an uncontrollable urge to kill somebody in his mind and this strong desire compels him to stab somebody. Similarly, a boy who is not given proper education may indulge in pick-pocketing due to evil company. In all these cases, we see that the cause of committing crime is something other than inner volitional desire. Thus, punishment should be to cure a criminal from his mental and physiological defects, or it should be to prevent a criminal from repeating the same crime by giving him proper education and for that prisons should be replaced by mental hospitals and reformatory schools to cure and reform a criminal proper treatment.

Perhaps it is necessary to make a distinction at this stage. Many people speak of the State's duty of reforming by punishing, which actually means reform as well as punishment, for as Bernard Shaw rightly says that two activities together may counteract with each other. To quote him, "if you are to punish a man retributive, you must injure him. "If you are to reform him, then you should improve him. And men are not improved by injuries.

Well, then how is punishment supposed to reform? There are two extreme views, which can be rejected immediately.

- 'Beat it out of the person. 'This model seems to be a lion tamer with a whip. This type of punishment does not eradicate evil habits, it only drives them underground.
- Suffering is supposed to have a moral value; it brings the soul under good influence. This view also cannot be accepted. For suffering does not automatically reform or educate, often it tends to be demoralized. At the most, punishments induce fear and that cannot reform a person. Man cannot be frightened out of badness into good. No doubt, we are obliged to punish something, but that cannot make a person a better individual.

That explains Dr. Ewing's famous paradox, "if it is punishment that reforms, then a man is not reformed and if a man is reformed then it is without punishment". This means true reformation means a change of heart, and punishment cannot bring the change. It can only induce fear and that is a non-moral motive. As long as there is punishment, a man may desist from committing crimes; overtly it can never reform him or bring about a change in heart. However, Dr. Ewing feels that punishment in the sense of "the beating down of the evil" will by pain is an essential stage in reformation.

Under what circumstances, can punishment reform in the real sense of the term? According to Sir Walter Moberly:

- There must be some response from the person punished. If the process only inflicts pain, there can be no reformation. The wrongdoer's conscience should be aroused in some sense.
- He himself has to realize that he has transgressed a moral standard. The court's verdict of guilty must be ratified by his own conscience.
- Punishment must be imposed by an authority, which he respects. The person punished therefore feels bound by the judgment of authority. When this condition is absent the intended moral effect of the punishment is destroyed. This happens in the case of hard-hearted criminals who do not accept any authority. It also happens in case of those who accept some other authority or who are convinced that they are killing for a cause.

Thus, if the punishment needs to have full meaning, the offender must have some kind of conscience, some latent sense of guilt and some respect for the authority (court) that punished him i.e., if punishment is to reform, it must enable the offender to see the offence, the way that society sees it. As Kant puts it, "however benevolent the purpose of given punishment may be, yet it must first be justified in itself as punishment and the person punished must admit the justice was done to him and that is his reward for perfectly suitable to his conduct. In every punishment it must first be retributive, if it is to become reformatory".

The wrongdoer must regard his punishment as just a reward of his deeds. His reformation begins with accepting the verdict of a righteous authority. The criminal must realize that the society is morally bound to punish him. As THE Green puts in "he sees that the punishment is his own act returning on himself, in the sense, that it

is a necessary outcome of his act in society governed by the conception rights, a conception which he appreciates and to which he does involuntary reverence”.

Criticism

1. Doubtlessly we can say that this theory is more advanced and satisfactory; yet it is not sufficient to accept it. This theory does not serve the original aim of punishment. All men do commit crime due to mental diseases. A crime is nothing but a deliberate violation of the moral law and the insult of the majesty of the moral law. So whoever violates moral law voluntarily is subject to punishment and therefore he should suffer the pain of punishment.
2. If we say that all crimes are due to some mental diseases or physiological diseases are due to absence of proper education then the entire society is nothing but the mass of insane, handicapped and uneducated people. Hence no need of moral laws and punishment for man because there is no one who is sound in mental condition or physiological faculties or education.
3. It is true that some crimes are due to unfavorable social circumstances, poverty, inequality, maladjustment, corruption and exploitation. Therefore, some improvement to prevent all these things in society is needed. But this is possible only if we punish those who are creating all these unfavorable social circumstances on the basis of justice and equity. Thus, even to reform the society, it is impossible without punishment to improve the people who are the cause of all social and moral disturbances.

Of the three theories, which theory is the best, will depend on the first order principle one accepts. If it is Justice, then the retributive theory which believes in punishment because it is deserved, and no other reason is best. If one's aim is to have maximum happiness in society then the deterrent theory, according to which deterring potential criminals from committing crimes, brings about happiness, and that is the best. Finally, if one believes that the purpose of punishment is to reform the criminal and to give him a second chance, then Reformatory theory should be applied or accepted.

However, for many the Retributive theory of punishment seems to be the correct view. It includes the two other theories. If vindication of the authority of the moral law is the aim of punishment it will be partly done by the reformation of the criminal and partly by the non-commission of crimes by others, but neither reformation of the non-commission crimes by others. But neither reformation of the criminal nor prevention of the crime is possible, unless it is recognized that punishment is a vindication of the authority's moral law. It is only when a criminal realizes that he is punished to vindicate the authority of the moral law and that it is his right to get his desert that he repents and is reformed. Again, the recognition of this fact leads others also to recoil from crimes. Retribution also brings about prevention and reformation.

Check your Progress

1. What according to you is Plato's view on Reformatory Theory?
2. State the aim of Reformatory theory of punishment.
3. Do you think that conscience plays an important role in reformation of character of a criminal?
4. State any two limitations of Reformatory theory of punishment.

4.8 RULE OF LAW AND JUSTIFICATION OF CAPITAL PUNISHMENT

Capital punishment means death by hanging. It is given as an ultimate penalty for grave offence, or major crimes such as murder. At one time, this punishment was given for very minor offences, for e.g. In 1815 in England, it was a capital offence to steal goods to the value of Rs. 5/- from a shop or to steal Rs. 50/- from a dwelling house. In 1816, capital punishment was given if one destroyed machine or stole a horse or a sheep or picked pockets. Today, capital punishment has been given up in many civilized countries, because they feel it is cruel to kill someone in this way and there should be a better way of punishing an individual than practicing the maxim of "life for life". After all, as one writer says - "We do not maim a man because he has maimed others or burn his house, because he has committed arson, or steal from a thief. Why then should we kill a killer?"

The justification of death penalty is often done in many ways: -

Sometimes the capital punishment is imposed to eliminate someone who has become a liability or a menace to a society. Sometimes the aim of such punishment is to give a terrible warning to others that is why death by hanging has to be given in order to get his due.

The following alternatives will be considered separately: -

- a. In its simplest form, the criminal is regarded as a pest and a menace to society and therefore, has to be got rid of. This implies that:
 - i. If the criminal is not regarded as a person, as an end in himself, but as a thing that has, by this one act of his, forfeited once and for all, his right to live.

ii. That like a malignant tumor has to be removed and destroyed in the interest of public health.

iii. That his operation is to be performed in cold blood without taking into consideration the extent or intensity of the pain.

b. The second reason and a very strong one in favour of capital punishment, is the deterrent aspect. The execution is expected to serve as a warning to other potential criminals against indulging in such evil acts. Fear of death can work as a strong deterrent. Here, however, there is a difference of opinion. Students of criminology feel that two general maxims must be kept in mind:

i. Whenever punishment follows crime certainly and immediately even a mild punishment is enough to deter.

ii. And where the prospect of being punished is doubtful and remote, the utmost severity is often not effective. And often extreme and indiscriminate severity is worse than ineffective. It defeats its own end - it arouses public opinion and evokes sympathy for the criminal. As one writer puts it: - the law by declaring that the crime (an insignificant one) shall not be punished with death, has declared that it shall not be punished at all. The bow has been bent till it has snapped.

In many cases, many criminals are persons of low intellect. An intelligent criminal is often a gambler. There is always a chance that he may not be detected, that if detected, he may not be convicted, if convicted, he may not be hanged. To such a criminal, species of danger may be an incentive rather than a deterrent. Yet in many countries today, death by hanging is done in public areas, so as to teach a lesson to the potential criminals.

c. The third factor that justifies capital punishment is retribution. The criminal must get what he deserves. He has taken someone's life, and he must repay the debt by giving up his own. This is not vengeance - it is a form of justice.

Like crime, punishment has a dual character. The penalty the criminal incurs is not simply death - it is death in disgrace. The criminal is not only sentenced to death but to die shamefully, to be hanged by the neck till he is dead. Of course, the culprit need not be punished in the same form of violence. What retributive justice is felt to require is a counterstroke of the same moral order and magnitude as the offence. As Aristotle put it- just retribution consists not in simple but in proportionate relation, that is, in receiving in return for a wrongful act not the same thing but its equivalent.

Whatever is the reason in support of the capital punishment it is equally true that if many countries have given it up, it is because the drawbacks are many.

a. In principle, capital punishment has grave defects. It fails to treat the criminals as a person and as an end in himself. As Sir Walter Moberly says, "our concern with the criminal's personality ought always to be constructive in intention. Even if, in given conditions, to put him to death may conceivably be the least evil alternative open to society, it is always a confession of social failure".

- Many feel that giving a person a life imprisonment is wasting public money for criminals and is maintained at the public expenses. It is better to get rid of him once in for all, through capital punishment. Others, however, feel that a man may not necessarily be a bad person; circumstances may have made him so. Hence it is necessary to give him a second chance, necessary

to bring the good sight of his character and thereby help him to rehabilitate himself.

- But perhaps the strongest objection is that there might be sometimes mistakes in delivering the court judgment. The so-called criminal may be a really innocent person. Once he has been put to death by capital punishment it would be impossible to rectify the mistake.

One feels that capital punishment be given to some criminals like murderers, rapist and terrorist who end up killing innocent people. However capital punishment is not justified.

4.9 SUMMARY

Punishment is the universal response to crime and deviance in all societies. Different types of punishment are used for different purposes.

One of the problems which moral philosophers are concerned with is that of punishment. Almost everybody agrees that some kind of punishment should be inflicted upon those who violate the laws of the state. The apt justification given for punishment is, if a good act deserves to be rewarded a bad act should be punished.

Philosophers state three main theories of punishment. They are Deterrent, Retributive and Reformative. All these theories have their own advantages and disadvantages. The best theory seems to be Retributive theory.

Capital punishment means death by hanging. It is an ultimate penalty given for grave offences. There are supporters and

critics of capital punishment. Today many civilized societies have given up capital punishment though supporters of the theory states that it should be given to hardened criminals like terrorist, rapists and murderers.

4.10 UNITEND QUESTIONS

1. Discuss the three theories of punishment.
2. What is the difference between sin, crime and punishment?
3. Explain retributive theory of punishment.
4. Briefly bring out the points of criticism of Retributive theory of punishment.
5. Bring out the importance of reformative theory of punishment.
6. Do you think Deterrent theory of punishment can bring maximum happiness or maximum number of people? Discuss.
7. What according to you is the most satisfactory theory of punishment? Discuss.

