2 Review of literature

Jerome Hall

The study relating to the system of punishments and the quest for reform is as old as the institution of crime. Jerome Hall in his classical work “Principles of Criminal Law” devoted a major portion of his work to a discussion on the principles that should govern the concept of punishment. He has explained in his unique style the principle of ‘Nulla poena sine lege’ and ‘nullum crimen sine lege’ and thrown light on the history and development of the system of punishment in the civilized world. While this particular Author took care of the jurisprudential basis of the concept of punishment.

C Beccria

Beccaria in his book “Of Crimes and Punishments”, propounded the theory of proportionality and utilitarianism and emphasized the application of the principles formulated by him to all the punishments in the beginning of 19th century, and gave suggestions as to what principles should be followed while imposing the punishments to make them moderate in nature and to make them devoid of barbarity.

Bentham

The theory developed by Beccaria was further developed by Bentham in his work “Rationale of Punishment”, Bentham discussed both the negative and positive aspects of punishments including death penalty, imprisonment, forfeiture of property, and fine.

Max Grunhut

Max Grunhut’s, work on “Penal Reform A Comparative Study”,is the only work which directly deals with the topic of penal reform and gives a clear picture of Penal Reform in general, and Prison History in England. But he confined himself to the problem of prisons.

Prof. Harisingh Gour
Apart from the above, many Indian writes have written considerable number of books on the Indian Penal Code, and other laws, amongst them Prof. Hari Singh Gour’s “The Penal Law of India”, is a distinct and classical work because of his approach to the subject, the analysis he put forwarded, and the kind of presentation he did. The author was of the opinion that the punishments provided in the penal code are harsh but he did not make any effort to offer suggestions as to how they can be reformed.

Dale G. Parent’s

There is plenty of literature available in foreign law journals. One of the few important articles is on “Sentencing Reform in Minnesota, Ten Years After: Reflections on Dale G. Parent’s Structuring Criminal Sentences: the Evolution of Minnesota's Sentencing Guidelines,” Reviews and updates Parent's book. Includes a detailed analysis of a theoretically and practically important line of cases permitting departure based on the defendant's particular "amenability" to probation; argues that these cases are consistent with the Guidelines' structure and purposes.

Vera Bergelson

In this article, he focused on the intersection of strict liability offenses and affirmative defenses. He sought to explore and evaluate a peculiar discrepancy: all states, as well as the Model Penal Code, deny to a defendant charged with a strict liability offense the defense of mistake, yet at the same time, allow most other affirmative defenses.

Agnes J. Busienei

This study investigated the alternative methods which teachers use instead of corporal punishment and the efficacy of these methods of student behaviour management. The study was conducted in Eldoret Municipality of Rift Valley province. The population of the study comprised secondary school teachers in Eldoret Municipality. Proportionate sampling technique was used to select 161 teachers from the 10 public secondary schools representing all the 3 strata of secondary schools in the Municipality.

Ivan Potas and John Walker
While public opinion polls generally indicate that a majority of the community are in favour of capital punishment for certain offences, many people would currently argue that it has little real deterrent value over and above that of imprisonment. Those who argue for the death penalty on the grounds that at least the killer is removed permanently from society, have also to keep in mind the fact that in practice the death penalty is often administered capriciously and that there is always a possibility that an innocent person may be executed.

**Laura Hush**

This research has examined whether the proposals put forward in the Coalition Government’s Green Paper, ‘Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders’ (Ministry of Justice, 2010) to increase the use of restorative justice would reduce the recidivism rates of young offenders as proposed or whether the current criminal justice system is the most effective means of achieving the Government’s aims.

**Mukesh Yadav, **Ravi Gangal, ***Pooja Rastogi**

A Critical review of decisions of courts has been done for highlighting the legal situation on the issue of meaning and scope of applicability of section 354 IPC. Data base collected and compiled from the National Crime Record Bureau website to understand the rising trend of crime. This paper discusses various reasons for less punishment for molestation and need for enhanced punishment and making it non-bailable to make sense in preventing rising crimes against woman.

**Mohammed Reza Mojtehedi**

In this research paper the author highlighted the principle prohibiting dual punishment is one of the most accepted and stable principles in most penal systems of the world. The laws governing calculation of punishments is one of the results of that principle, according to which a foreign national punished in the country where the crime was committed, will not face any criminal charges in his/her own country for the same crime. This article intends to review the position of the law governing in Iran.
Anne Worrall

In this paper author seeks to problematise and offer possible explanations for the contrast between the decline in the numbers of women placed on probation and the increase in the numbers of men placed on probation since the early 1980s. To illustrate the problem, I have chosen statistics for the years 1983 and 1994. [1] I have also included figures for 1993 because these show the lowest figure for women and the greatest discrepancy between men and women. Although Summary Probation Statistics are available for 1995 (Home Office 1996c) these had not, at the time of writing, been analysed by sex.

Gabrielle Garton

This Research Paper has been prepared for the second reading of the Legal Aid, Sentencing and Punishment of Offenders Bill. The Bill covers a diverse range of issues, including legal aid; litigation funding and costs; sentencing; bail, remand and release on licence; prisoners' pay and employment; out of court disposals and knives.

Janet Chan and Deborah Oxley

The strength of capital punishment as a deterrent against crime, as this review of the literature shows, is still a vexed issue among researchers almost thirty years after the publication of Ehrlich’s (1975a) econometric model. The weight of the research evidence, covering different jurisdictions at different time periods, still favours the ‘no deterrence’ conclusion.

Bahri Aydın

In this paper the author discuses the situation when teachers meet with unwanted behavior when they are acting as facilitators of the learning process and they resort to certain tactics to deal with them. One of these tactics is punishment. This study aimed to identify the views held by Turkish primary school pupils on punishment. According to the results of the study, pupils were punished for different reasons by their teachers, who used different types of punishment in response to this unwanted behavior. Not being able to accept the situation, pupils experienced negative emotions toward the teacher and the lesson. Some of the punitive methods applied
changed pupil behavior, some did not. Pupils expected different reactions in place of ineffective teacher punishments.

**Amasa Ndofirepi Jeriphanos Makaye Elizabeth S. Ndofirepi**

In this paper authors submit a critical, theoretical discourse of discipline and punishment in South African schools. The present situation in schools is indicative of a lack of discipline, which has led to a perpetuation of unsuccessful learning and teaching. The banning of corporal punishment has been criticised by many educators, many of whom continue to use it against the law, in the belief that it is necessary for the creation of a climate conducive to teaching and learning. We argue that the confusion as about the place of discipline and punishment in school is a definitional question. Hence, our interest in deliberating on the distinction between punishment and discipline in the context of South African schooling.

**Wojtek Przepiorka and Andreas Diekmann**

In this paper the authors has been shown theoretically and empirically that informal punishment of wrongdoers fosters cooperation in human groups. Most of this research has focused on voluntary and uncoordinated punishment carried out by individual group members. However, as punishment is costly, it is an open question as to why humans engage in the punishment of wrongdoers even in one-time-only encounters.

**Menance**

Corporal punishment is a primitive outdated concept. As a society, we, including parents, endorse violence as a tool often uses it to punish the powerless. Thus, corporal punishment is not only a teacher–student issue but a concern that society as a whole with parents as most significant others needs to delve into.

**David S. Lee Justin McCrary**

In this paper the author suggested A longstanding notion in the economics of crime is that illegal behavior can be deterred by raising either the certainty or severity of punishment. In practice, this tradeoff is highly dependent on criminals’ discount rates. This is because the only practical
way to increase severity is to lengthen periods of incarceration, which will only raise the price of crime if discount rates are relatively low. If discount rates are very high, then incarceration can do little to deter illegal behavior. By contrast, elasticities with respect to the likelihood of incarceration are invariant to discount rates.

Kevin M. Carlsmith and John M. Darley Paul H. Robinson
There are many situations in which people wish to punish another. When a person is unjustly harmed through assault or robbery, people typically experience a strong desire to punish the offender. From a psychological point of view, what is the source of this motivation, the justification for this behavior? When people, as voters, jurors, and citizens, exact punishment from a perpetrator for violating societal norms, what are they trying to achieve? In short, why does society punish? Their concern in this article is with the psychology of punishment specifically with the punishment motives of ordinary people.