

## JUSTIFICATION FOR PUNISHMENT

### RETRIBUTION, DETERRENCE, REFORM, INCAPACITATION

#### A. Features of “Punishment”

1. Punishment must involve pain or other consequences normally considered unpleasant.
2. It must be for an offense against legal rules.
3. It must be of an actual or supposed offender for his offense.
4. It must be intentionally administered by human beings other than the offender.
5. It must be imposed and administered by an authority constituted by a legal system against which the offense is committed. PP. 409-410\*

#### B. Retributive: Revenge: Retaliation: “Just Deserts”

“...punishment (the infliction of suffering) is imposed by society on criminals in order to obtain revenge, or perhaps (under the less emotional concept of retribution) because it is only fitting and just that one who has caused harm to others should himself suffer for it.” PP. 25-26\*\*

#### C. Consequentialist

##### 1. Deterrence: General Prevention

“...the sufferings of the criminal for the crime he has committed are supposed to deter others from committing future crimes, lest they suffer the same unfortunate fate.” PP. 24\*\*

##### 2. Reform: Rehabilitation: Correction

“...we ‘punish’ the convicted criminal by giving him appropriate treatment, in order to rehabilitate him and return him to society so reformed that he will not desire or need to commit further crimes.” PP. 24\*\*

##### 3. Incapacitation: Restraint: Isolation: Disablement

“...society may protect itself from persons deemed dangerous because of their past criminal conduct by isolating these persons from society.” PP. 23\*\*

\* H. L. A. Hart quoted in Fletcher, Rethinking Criminal Law

\*\* LaFave and Scott, Criminal Law