# HISTORICAL EVOLUTION OF PUNISHMENT SYSTEMS

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**Abstract**

We will notice that in human history, with the various stages of development and transformation of society, punishment was interpreted differently, thus suffering many variations from the point of view of theoretical analysis perspectives as well as in terms of typologies and methods of application.

Thus, the analysis of the historical evolution of the punishment system needs a dual approach, one that highlights the evolution of the concept of "punishment" in the doctrine, emphasizing the main definitions and theories debating this theme and the other approach, that points the temporal interpretation of punishment systems, outlining for each historical phase, the transformations that have undergone formal punishments and that marked and characterized historical periods.

**Key words**: *Punishment Systems, History of Punishment, Theoretical Perspectives on Punishment, Evolution of Punishment, Types of Punishment*

### The doctrinally evolution of the concept of "punishment"

As Herbert L.A. Hart noticed in the book "Punishment and Responsibility. Essays in the Philosophy of Law", never has been greater the interest but also the confusion created by topic of punishment, as today[1].

We can find the attempt to define punishment from the Roman Empire to the founders of natural law and especially in the contemporary doctrine. A famous definition of punishment belongs to Hugo Grotius: "punishment is the harm of suffering that occurs for the harm of deed"[2]. One of the most popular definition is identified in the model Flew-Benn-Hart[3], in which we can recognize the imperative existence of five elements: involves pain or other unpleasant elements; violates legal norms; the deed must be committed by the offender or the presumed offender; is applied intentionally by a person (that is not the perpetrator); is imposed by a legally constituted institution[4]. Following the model described above, C. Rotaru defines punishment as the "injurious action directed against a person and applied by an authority, because that person is found guilty of a criminal offense to legal rules, provided that such an approach has been previously typed in norm"[5]. J. Hampton considers punishment as a response to the perpetrator's mistakes

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[1] Herbert L.A. Hart, *Punishment and Responsibility. Essays in the Philosophy of Law*, Second edition (with an introduction by John Gardner), Oxford, Oxford University Press, 2008, p. 1.

[2] Leontin Coraş, *Sancţiuni penale alternative la pedeapsa închisorii*, Bucureşti, Editura C.H. Beck, p. 8.

[3] Retrieved from Herbert L.A. Hart, *Punishment and Responsibility*, Oxford, Clarendon Press, 1968, pp. 4-5; Stanley Benn, *An Approach to the Problems of Punishment*, in "Philosophy", no. 33/1958, pp. 325-341; Antony Flew, *The Justification of Punishment*, in "Philosophy", no. 29/1954, p. 291.

[4] Herbert L.A. Hart, *Punishment and Responsibility*, Oxford, Clarendon Press,1968, pp. 4-5.

[5] Cristina Rotaru, *Fundamentul pedepsei. Teorii moderne*, Bucureşti, Editura C.H. Beck, 2006, p. 31.

and this response interferes with the perpetrator's freedom to fulfill his desires[1], and for H. Morris, punishment involves a deprivation and results in a conflict between what people want and what they get[2].

From a theological point of view, for A. Beristáin, punishment should be useful and necessary, and its implementation must respect dignity[3].

From the legal point of view, punishment is based on retributive, deterrence, incapacity and rehabilitation functions. As Cesare Beccaria observed as early as the eighteenth century, in his book "On Crimes and Punishment" laws are governing social life, and because of their despotic spirit and in order to prevent the existence of a chaotic society, people have given up partially to their freedoms for the common good and sovereignty, which by law, has created punishment as an element to be applied to those who break the law[4]. For Hall, punishment is the element that causes suffering to the perpetrator of the crime, but only when this suffering appears as a social response to the offense[5]. At the same time, punishment can be regarded as an instrument of criminal law, and to G. Hallevy it represents "the extreme expression of social control", especially when talking about a legal social control emerged as a result of the failure of other mechanisms[6].

Sociologically, punishment is a "complex social institution, shaped by a set of important social and historical elements and which has a number of effects that have a greater impact, affecting elements that go beyond population and delinquent persons"[7]. For Garland, the sociology of punishment is a discipline that investigates punishment from a more complex perspective than penology or philosophy do[8], thus being able to exhibit a more realistic and complete image of punishment. The author notes that in theory, sociological research approaches of punishment are not uniform, not forming an integral, not having a constant research agenda with clearly defined parameters, the same type of problem being addressed from different perspectives and thus leading to evidence some characteristics and different roles of punishment[9]. But with all these, Garland very fairly references the *character*, rather *complementary* than antagonistic, of various sociological analyzes of punishment.

Although the main doctrines of punishment come from the penology and philosophy, the sociology of punishment appears as a separate perspective that builds a "multi-dimensional exposure on the significance, functions and social forms of punishment, managing to help promote more appropriate and realistic targets for criminal policies and a

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[1] Jean Hampton, *The Moral Education Theory of Punishment*, in John Simmons (coord.), *Punishment,* Princeton, Princeton University Press, 1995, p. 129.

[2] Herbert Morris, *A paternalistic theory of punishment*, in "American Philosophical Quarterly", no. 18/1981, pp. 263-271.

[3] Antonio Beristáin, *El catolicismo ante la pena de la muerte*, in "La pena de muerte: 6 respuestas", Madrid, Boletin Official del Estado, 1978, p. 169.

[4] Cesare Beccaria, *Despre infracţiuni şi pedepse*, tradusă din italiană de Dana Grasso cu o prefaţă de Giulio Giorello, Bucureşti, Editura Humanitas, 2007, p. 47.

[5] Jerome Hall, *The general principles of criminal law*, Second edition, New Jersey, Lawbook Exchange, 2005, pp. 296-324.

[6] Gabriel Hallevy, *The Right to Be Punished. Modern Doctrinal Sentencing*, Berlin, Springer, 2013, p. 1.

[7] David Garland, *Sociological perspectives on punishment*, in "Crime and justice", no. 14/1991, p. 115.

[8] *Ibidem*, pp. 115-121.

[9] *Ibidem*, pp. 121-122.

more detailed assessment"[1]. In his work "Sociological perspectives on punishment" David Gardland makes a statement of what he considers to be the most representative sociological perspectives of interpretation of punishment and so the author identifies four approaches[2]:

- *the Émile Durkheim approach: punishment and social solidarity*. In Durkheimian perspective, punishment is seen as a cautionary mechanism that produces solidarity[3], based on collective feelings.

- *the Karl Marx approach: the political economy of punishment*. In the Marxist view, the penalty is a component of class rules. Marx studies punishment as an instrument of state, economically conditioned, which plays a political and ideological role in achieving class domination.

- *the Michel Foucault perspective: punishment, power and knowledge*. Foucault sees punishment as a form to exercise power, focusing on "power-knowledge" processes operating in the field of criminal law and links them to other networks of other areas and regulations.

- *the Norbert Elias perspective: punishment and sensibilities – the "civilizing" of criminal methods*. In Elias' view, punishment is an adopted cultural form. The author sees cultural sensitivity[4] and the procedure of "civilization", as being fundamental in the transformation of modern punishment systems.

The theories that discussed the "punishment" theme are found in doctrine in a wide variety, but one of the most complete classifications of these theories is made by A.J. Corlett[5], which identifies five categories. In addition to the five types identified by Angelo Corlett, we can find in literature a sixth type of theories, the eclectic theory, which, incidentally, I consider to be the most complete, managing to properly justify the need for punishment.

Thus, we can highlight 6 representative theories for explaining punishment systems:

a) *Punishment abolitionist theories*. This theory has two perspectives:

- *The extreme perspective*, which argues that punishment is morally incorrect. Authors such as Karl Marx and Max Stiner developed this point of view.

- *The moderate perspective*, stating that the institutions' action to punish, can be justified under certain conditions, and in others can not be justified.

b) *Vengeance theories of punishment*. These theories justify punishment as an element that brings satisfaction to society because the guilty persons pay for their actions and to alleviate negative feelings in society, that otherwise could lead to social disruption[6].

c) *Moral education theories of punishment*. The theory argues that punishment aims the moral education of the perpetrator but also of the whole society, by example. Authors such as Hampton, Nozick or Duff totally support this perspective and other writers, such

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[1] *Ibidem*, p. 115.

[2] *Ibidem*, pp. 115-152.

[3] Eugenia Udangiu, *Creativity and the pressures of contemporary world*, in "Network Intelligence Studies", Year IV, no. 2/2014, p. 306.

[4] Andreea Niţă, *Cultural phenomena and processes in contemporary society-determinants of cultural policies*, in "Revista de Ştiinţe Politice", nr. 32/2011, pp. 61-69.

[5] Angelo Corlett, *Responsabiliy and Punishment*, third edition, Dordrecht, Springer, 2009, pp. 29-47.

[6] Joel Feinberg, *Reason and Responsability*, Belmont, Wardworth Publishing Company, 1989, apud Angelo Corlett, *op. cit.*, p. 348.

as France Gill, partially support it, considering it to be incomplete in terms of justification of punishment[1].

In the spectrum of this theoretical perspective we can also fit E. Durkheim, who highlights the functions of punishment for maintaining moral order and social solidarity and for fighting anomy[2]. We also find in the doctrine the nihilistic perspective of this theory based on moral education and the most representative author of this opinion is Foucault, who believes that, in any historical period, punishment can be morally justified[3].

d) *Utilitarian theories of punishment.* They argue that punishment is applied to deter the perpetration of other illegal or anti-social acts by the person who performed the deed or by other persons. The present interpretation is found in philosophers such as Seneca or Protagoras, but also modern authors such as G.E. Moore and J.S. Mills.

e) *Retributivist theories of punishment.* These theories justify punishment by the guilt of those who commit criminal acts and by the fact that it is deserved by those who violate social and moral order[4]. Among the supporters of this vision we find Kant, Hegel and Hobbes.

f) *Eclectic theories*, justify moral requirement, to punish the negative act committed, but they also take into account the society's need to punish, for the act, not to be committing in the future, thus using the power of example[5]. J. Rawls is one of the most well known authors, who supported this theory.

### Historical staging of punishment systems
### General considerations

Throughout history, it was considered that man is unable to realize the seriousness and adverse effects of his actions, if he doesn't personally feel the effects of a punishment[6]. Hence the need for punishment at all stages of society evolution, taking into account its afflictive nature. We will observe that in time, punishment has undergone a series of transformations as a result of societal development. We will try to make a historical analysis of punishment, taking into account that the history of punishment is "a part of the universal history of criminal law"[7], thus analyzing in historical context the evolution of the socio-legal punishment system.

We will explore the historical evolution of the punishment system, taking into account the division of human history into five stages, indicating that the temporality of these eras is structured according to the transformation found in the general punishment system: *Prehistory, Antiquity, Middle Ages, Modern Age, Contemporary Age.*

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[1] Frances Gill, *The moral benefit of punishment: self-determination as a goal of correctional counseling*, Oxford, Lexington Books, 2003, p. 17.

[2] Mark Colvin, *Penitentiaries, Reformatories and Chain Gangs. Social theory and the history of punishment in nineteenth-century America*, New York, St. Martin's Press, 1997, p. 2.

[3] Michel Foucault, *A supraveghea și a pedepsi. Nașterea închisorii. Ediția a doua*, tradus din franceză de Bogdan Ghiu, Pitești, Paralela 45, 2005, p. 194.

[4] Alf Ross, *On guilt, responsibility and punishment,* California, University of California Press, 1975, p. 33.

[5] Traian Pop, *Curs de criminologie*, Cluj, Institutul de Arte Grafice Ardealul, 1928, pp. 121-122.

[6] Mădălina-Elena Mihăilescu, *Sancțiuni contravenționale. Aspecte de drept material în dreptul românesc și comparat*, București, Editura Hamangiu, 2013, p. 3.

[7] *Ibidem*, p. 5.

To see the difference from the classical periods of human history, we will structure temporally the five stages of punishment evolution, in comparison with the universally recognized periods in human history. In order to achieve a clearer differentiation, we present these periods in the form of a logical scheme (Table 1).

Table 1. *Classical stages of Human History vs. Historical Stages of the Evolution of Punishment System*

| *Historical ages* | *Classic stages of human history* | *Historical stages of the evolution of punishment system* |
|---|---|---|
| **Prehistory** | First humanoids communities→Year 3000 B.C. | First humanoids communities → Year 3000 B.C. |
| **Antiquity** | Year 3000 B. C. → 3rd century/6th century (depending on the continent/country) | Year 3000 B.C. →6th century (Justinian Code) |
| **Middle ages** | 3rd century/ 6th century (depending on the continent/ country) →15th century/18th century (depending on the continent/country)<br><br>*Some historical sources consider even the beginning of the 19th century as being the extinction period of the Middle Ages | 6th century (Justinian Code) →Second half of the 18th century and beginning of the 19th century (the historical moments differ according to the period when countries renounced to corporal punishment and public execution) |
| **Modern age** | 15th century/18th century (depending of the continent)→18th century/ 20th century (depending of the continent) | The beginning of the 19th century/ The second half of the 19th century →The end of the 19th century (applying predominantly the punishment of deprivation of liberty) |
| **Contemporary age** | 18th century/ 20th century (depending on the continent/country) → present | The beginning of the 20th century→present (the appearance and development of measures to substitute the punishment of deprivation of liberty).<br>This stage can be classified in 3 other substages:<br>a) The first half of the 20th century (the first measures to substitute punishment of deprivation of liberty)<br>b) The second half of the 20th century (developing alternative measures for the deprivation of liberty)<br>c) The end of the 20th century -present (The stage of intermediate punishments,of intense probation) |

**Prehistory**

Gabriel Hallevy, makes in the book "The right to be punished. Modern doctrinal sentencing", a historical analysis of the evolution of punishment, the author exploring punishment from the Paleolithic, Mesolithic, Neolithic and Chalcolithic ages and also surprising key aspects of punishment evolution in the period of ancient Greece, ancient Mesopotamia and the Roman Empire.

Prehistory covers the period stretching between the appearance of the first humanoids communities to 3000 B.C. In the Paleolithic era we find punishments imposed by group leader, such as the expulsion of a group or ostracism, but also punishments imposed by religious beliefs and applying corporal punishment using stone. In the Mesolithic era, with the advent of small rural communities, social norms and institutions are created, the violation of those rules leading to the first formal sanctions. In the Neolithic era, with the advent of urban communities, legal order appears, that imposes following rules and enforcing imposed penalties. In the Chalcolithic era, the appearance of first metropolitan areas, determines the birth of rules of criminal law, but they coincide with the rules imposed by religion and thus consider that a person committing a crime, while violating a legal and divine rule, became impure and had to undergo a series punishments meant to bring purity[1].

Since punishment has become a habit, it turned for community members in rule of law, becoming mandatory[2].

**Antiquity**

In human history, antiquity, can temporally be positioned from the period around the year 3000 B.C. and ends in the 5th century, with the fall of the Western Roman Empire. In terms of punishment system, antiquity ends with the emergence of the Justinian Code. In this context we will analyze the main punishments developed in the great civilizations of antiquity. In ancient Mesopotamia there were introduced a series of criminal penalties such as death penalty, drowning, burning, mutilation, economic sanctions, exile etc[3]. In ancient Greece, the offense meant "the violation or denial of living according to the behavior standards mandatory in society", "a prohibited action" or "revolt of the person against society"[4].

Initially, in ancient Greece there were highlighted disputes based on violating private rights[5] and only in the period of 8th century B.C. we can find some concepts that can be considered as belonging to criminal law. It is the period in which processes are required, we find affidavits of the parties and witnesses, and homicide although it was seen as an issue to be resolved within a family setting, there is still the idea that it brings moral vitiation and start the useof cleansing homicide rituals, as state attribute[6].

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[1] Gabriel Hallevy, *op. cit.*, pp. 2-3.
[2] George M. Calhoun, *The growth of criminal law in Ancient Greece*, New Jersey, Law Book Exchange LTD Union, 1999, p. 2.
[3] Gabriel Hallevy, *op. cit.*, pp. 3-4.
[4] Richard Dargie, *Ancient Greece, Crime and Punishment*, Minneapolis, Compass Point Books, 2007, p. 6.
[5] Ionuţ Şerban, *The Greek and Latin cultures reflected in modern Romanian culture*, in "Revista de Ştiinte politice", no. 29/2011, pp. 42-45.
[6] Robert J. Bonner, *Administration of justice in the Age of Hesiod*, in "Clasical Philology", vol. 7, no. 1/1912, p. 23.

In the classical period of ancient Greece[1], justice was administered by the People's Assembly and punishments varied according to the social condition[2]. Economic sanctions were applied as well as the confiscation of goods and properties and physical punishments such as the death penalty, poisoning, slavery, deprivation of certain civil rights, deportation, torture of slaves etc[3]. Athenian justice was characterized by evolution, thus appearing the suppression of collective punishment and the law of retaliation but we can also identify short comings, that were the lack of a specialized legal body and legislative code as well as the different application of punishments according to class[4].

We can see since the dawn of the emergence of Roman civilization an indissoluble relationship between the rule of law (ius) and religious norm (fas) with no differentiation between them. For that period, we can talk about "ius divinum", that law which always had to be according to the will of the gods. Initially, for the Romans there was no equivalent word for "punishment", the term "poena" appearing relatively late in the Roman legal vocabulary[5].

The first clear specifications on the rules of Roman law appear around 200 B.C., during which the prosecution was based on punishment applied by the "pater familias" within the family, "juvenile magistrates" (tresuviri Capitales) in community safety issues and the "people's representatives" (comitia) that judged processes[6]. In the Roman Empire, they used mostly economic sanctions such as fines and confiscation of property, even resorting to the law of retaliation, but there were also used combined modes of punishment, resorting to various types of punishment like exile, annulment of marriage, death penalty etc[7].

One of the most important laws of the Roman Empire was the Law of XII Tables, which remained in force for XI centuries and we can find in it, regulated, the fundamental principles of law like universality of law and equality of individuals before the law, but also identify elements less valued in the doctrine, as well as solidary liability of race for each of its members or own judgment of race for crimes committed within it[8].

Starting with the 6th century, after the codification of Roman Law, punishment governed by the Code of Justinian became the legal basis for sanctions in the Middle Ages in Europe continent[9].

**Middle Ages**

The Medieval Age, also called the Middle Ages, from a historical perspective, lies between the 3rd or 6th century, depending on the continent or country and 15th to 18th century. Some theorists appreciate even the early 19th century as the extinction period of

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[1] Ionuţ Şerban, *op. cit.*, p. 43.

[2] Mădălina-Elena Mihăilescu, *op. cit.,* p. 13.

[3] Gabriel Hallevy, *op. cit.*, pp. 4-5.

[4] Mihai Bădescu, *Sancţiunea juridică în teoria, filosofia dreptului şi în dreptul românesc*, Bucureşti, Lumina Lex, 2002, p. 93.

[5] Ioan Tanoviceanu, *Tratat de procedură penală*, vol. III, Bucureşti, Curierul Judiciar, 1924, p. 15.

[6] Olivia F. Robinson, *The criminal law of ancient Rome*, Baltimore, John Hopkins University Press, 1995, pp. 1-2.

[7] Gabriel Hallevy, *op. cit.*, p. 5.

[8] Romulus Gidro, Oana Mihuţiu, *Drept roman. Partea I*, Cluj, Casa Cărţii de Ştiinţă, 1996, p.15.

[9] Gabriel Hallevy, *op. cit.*, p. 6.

the Medieval Age. The times of onset and end of the Middle Ages vary widely because they are indissolubly linked to the performance of some key events for the development of various countries. In the first chapter "*The body of the condemned*" of the book "*Discipline and punish. The birth of the prison*" Michel Foucault presents *medieval* punishments, characterized by physical punishment, torture, humiliation, mutilation and murder in the most horrid ways and the period of transition to a Modern Age, "new era for criminal justice"[1] characterized by the criminal law reform projects and even the emergence of "modern criminal codes"[2]. In this era, even the penalties involving deprivation of liberty were associated with torture and cruelty[3]. Since the second half of the 18th century, Enlightenment thinkers crumbled the foundations of feudal law, making common front against it. Thus, works like "Dei delitti e delle pene" (1764) by C. Beccaria, "Du contract social" (1762) by J.J. Rousseau or "L'esprit des lois" (1778) by Montesquieu, have deeply influenced legislative changes, representing the pillars of classical law doctrine[4]. Foucault identifies the period between *the second half of the 18th century and early 19th century* as the medieval final period, characterized by the disappearance tortured, amputated, dismantled, marked symbolically and offered as punitive show body, thus the body no longer being the target of criminal repression[5], speaking thus of the emergence of a discrete punishment, which will be the hidden part the criminal trial.

Michel Foucault identifies the importance of Cesare Beccaria's work in 1764 "On crimes and punish", author who claimed the waiver of the death penalty and public execution[6] which is seen as a "fireplace able to reignite violence"[7]. The author of "*Discipline and punish. The birth of the prison*" states that since 1848 we can talk about an almost definitive disappearance of "torture", the show of public punishment, thus entering the "era of punitive sobriety"[8]. For Foucault the period 1330-1848 (the great transformation), represents the historic period when global public corporal punishment was dropped, but the "transformations didn't occur in the block or in a single process"[9], so we can discover different times for each state.

**Modern age**

What historically is considered to be the "modern age" is the period between the 15th or 18th century (the period is different depending on events occured in various parts of the world) and the 18th century to 20th century (depending on the continent/country). From the stand point of the history of punishment, the modern era has its onset upon extinction

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[1] Michel Foucault, *op. cit.*, p. 13.

[2] *Ibidem.*

[3] Cristina Ileana Piciu, Oana Bolovanu, *The Socio-profesional reintegration of the persons that leave the detention system*, in "The bulettin of the center for dialogue between sciences and theology", Year VIII, no. 1-2/ 2011, p. 276.

[4] Constantin Sima, *Măsurile de siguranţă în dreptul penal contemporan*, Bucureşti, Editura All Beck, 1999, p. 5.

[5] Michel Foucault, *op. cit.*, pp. 13-14.

[6] Cesare Beccaria, *op. cit.*, pp. 175-191.

[7] Michel Foucault, *op. cit.*, p. 16.

[8] *Ibidem*, p. 21.

[9] *Ibidem.*

of physical punishment, torture and public performances, namely it starts at the beginning or the second half of the 19th century, and its end point is the late 19th century.

Since the second half of the 19th century, the punishment ceased to be focused on torture as a technique for producing suffering, its object becoming the loss of property or a right, focusing on those punishments that are "humanized" such as forced labor, electrocution, lethal injection or incarceration in prison (although there are identified multiple combinations of punishment execution in prison with corporal suffering). It is the moment when Foucault identifies the change of punishment object from "body and blood" to an intangible reality that invokes the "soul" of the delinquent person, thus aiming to control the individual, threat neutralization, changing criminal predisposition overall, transformation of the perpetrator[1].

We find in Foucault the "presumption of innocence" as an essential element in differentiating the two eras: the classical era, where we don't find this presumption, and punishments were tangible and cruel and the modern era, there appears the presumption of innocence, prohibiting applying brutal punishments, the person's character is now the central element of punishment[2] .

Most criminal codes during the 19th century use extensively confinement even for minor offenses[3], thus appearing an "experimental fever" in prison organization[4].

Late 19th and early 20th century mark a negative reaction on the classical systems of criminal law, characterized by excessive use of confinement and thus reaching the stage where imprisonment didn't repulse society, being thus in the presence of an apparent weakening of the moral conscience of people and an alarming increase in the number and seriousness of offenses[5]. This is the moment of "positivist criminology", represented by Enrico Ferri, Cesare Lambroso, Raffaele Garofalo, Andre M. Guerry, Hanry Mayhew and Lambert A.J. Quetelet[6]. E. Ferri gives the failure of the classical stage of criminal law to the following reasons: psychological automorphisms (the normal person assignes normal feelings to the offender); criminal dosimeters (application of mitigating circumstances for repeat offenders); impersonality (criminals are not known and analyzed); abandonment of the inmate when leaving the prison system[7].

### Contemporary age

We can place the contemporary era in historical context, as beginning with the 18th century or 20th century (depeding on the continent/country). And in terms of the history of punishment it coincides with the emergence of the first measures to substitute punishment. But the evolution of these measures was marked by different events that lead to the possibility of dividing it into three sub-phases:

- The first half of the 20th century (appearance of probation and suspension of punishment);
- The second half of the 20th century (development of alternative measures).

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[1] *Ibidem*, pp. 21-25.

[2] Frances Gill, *op. cit.*, p. 24.

[3] Jean Pradel, *Droit penal compare,* Paris, Dalloz, 1995, p. 569.

[4] Viorel Paşca, *Măsurile de siguranţă. Sancţiuni penale*, Bucureşti, Editura Lumina Lex, 1998, p. 16.

[5] Gheorghe Diaconu, *Pedeapsa în dreptul penal*, Bucureşti, Editura Lumina Lex, 2001, p. 142.

[6] Eugen Sandu, Florin Sandu, Gheorghe Ioniţă, *Criminologie,* Bucureşti, Editura Sylvi, 2001, p. 38.

[7] Traian Pop, *op. cit.*, pp. 393-394.

- The end of the 20th century to the present (intermediate punishment, the development of intensive probation).

There appear, in the first three decades of the 20th century, innovative concepts, which will aim to impose new types of sanctions that seek to represent alternative to prison regime and in most European countries and the American continent modern criminal codes are adopted[1]. That was the moment when firt appeared the institution of probation and of suspension of punishment execution.

Since the second half of the 20th century there are developed alternatives to detention punishment. During this time the focus is on the process of individualization of punishment taking into account the personal circumstances of delinquents, it is developed the system for suspension of sentence execution. (simple and under probation), unpaind community work, etc[2].

The years 1980-1990 brought another new element[3] in the punishment system, namely the emergence of intermediate punishments between deprivation of liberty and probation, so the basic tools being probation with intensive surveillance, house arrest, semi-detention, detention at night or day, community service, shock interventions (short – term detention) etc.

### Conclusions

We notice that throughout history, in parallel with stages of development and transformation of society, there constantly have occurred changes in terms of how to theoretically interpret punishment in terms of its functions, foundations and objectives, and also evolved the typologies and procedures for the application of punishment.

After this analysis conducted by theoretically and historically perspective I can conclude that, indeed, the transformation in time of punishment systems has led to an evolution both doctrinally, so the eclectic system is best defined and able to provide a comprehensive explanation on punishment, and in terms of the legal methods of application of the punishment, the current application forms, those that include a combination of deprivation of liberty punishments and intensive probation, representing the most advanced form of punishment administration.

### Bibliography

Bădescu, Mihai, *Sancțiunea juridică în teoria, filosofia dreptului și în dreptul românesc*, București, Editura Lumina Lex, 2002.

Beccaria, Cesare, *Despre infracțiuni și pedepse*, tradus din italiană de Dana Grasso cu o prefață de Giulio Giorello, București, Editura Humanitas, 2007.

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[1] Viorel Pașca, *op. cit.*, p. 32.

[2] Leontin Coraş, *op. cit.*, p. 40.

[3] Ionuț Şerban, *Reconfiguring the international system. The 1989 events and the fall of an ideology*, in "Revista de Ştiințe Politice", no. 42/2014, pp. 147-156.

Benn, Stanley, *An Approach to the Problems of Punishment*, in "Philosophy", no. 33/1958.

Beristáin, Antonio, *El catolicismo ante la pena de la muerte*, in "La pena de muerte: 6 respuestas", Madrid, Boletin official del Estado, 1978.

Bonner, Robert J., *Administration of justice in the Age of Hesiod*, in "Clasical Philology", vol. 7, no. 1/1912.

Calhoun, George M., *The growth of criminal law in Ancient Greece*, New Jersey, Law Book Exchange LTD Union, 1999.

Colvin, Mark, *Penitentiaries, Reformatories and Chain Gangs. Social theory and the history of punishment in nineteenth-century America*, New York, St. Martin's Press, 1997.

Coraş, Leontin, *Sancţiuni penale alternative la pedeapsa închisorii*, Bucureşti, Editura C.H. Beck, 2009.

Corlett, Angelo, *Responsabiliy and Punishment. Third edition*, Dordrecht, Springer, 2009.

Dargie, Richard, *Ancient Greece, Crime and Punishment*, Minneapolis, Compass Point Books, 2007.

Diaconu, Gheorghe, *Pedeapsa în dreptul penal*, Bucureşti, Editura Lumina Lex, 2001.

Feinberg, Joel, *Reason and Responsability*, Belmont, Wardworth Publishing Company, 1989.

Flew, Antony, *The Justification of Punishment*, in "Philosophy", no. 29/1954.

Foucault, Michel, *A supraveghea şi a pedepsi. Naşterea închisorii*, ediţia a II-a, traducere din franceză de Bogdan Ghiu, Piteşti, Paralela 45, 2005.

Garland, David, *Sociological perspectives on punishment*, in "Crime and justice", no. 14/1991.

Gidro, Romulus, Mihuţiu, Oana, *Drept roman*, Partea I, Cluj, Editura Casa Cărţii de Ştiinţă, 1995.

Gill, Frances, *The moral benefit of punishment: self-determination as a goal of correctional counseling*, Oxford, Lexington Books, 2003.

Hall, Jerome, *The general principles of criminal law*, Second edition, New Jersey, Lawbook Exchange, 2005.

Hallevy, Gabriel, *The Right to Be Punished. Modern Doctrinal Sentencing*, Berlin, Springer, 2013.

Hart, Herbert L.A., *Punishment and Responsibility*, Oxford, Clarendon Press, 1968.

Idem, *Punishment and Responsibility. Essays in the Philosophy of Law*, Second edition (with an Introduction by John Gardner), Oxford, Oxford University Press, 2008.

Hampton, Jean, *The Moral Education Theory of Punishment*, in John Simmons (coord.), *Punishment*, Princeton, Princeton University Press, 1995.

Mihăilescu, Mădălina-Elena, *Sancţiuni contravenţionale. Aspecte de drept material în dreptul românesc şi comparat*, Bucureşti, Editura Hamangiu, 2013.

Morris, Herbert, *A paternalistic theory of punishment*, in "American Philosophical Quarterly", no. 18/1981.

Niţă, Andreea, *Cultural phenomena and processes in contemporary society-determinants of cultural policies*, in "Revista de Ştiinţe Politice", no. 32/2011.

Paşca, Viorel, *Măsurile de siguranţă. Sancţiuni penale*, Bucureşti, Editura Lumina Lex, 1998.

Piciu, Cristina Ileana, Bolovanu, Oana, *The Socio-profesional reintegration of the persons that leave the detention system*, in "The bulettin of the center for dialogue between sciences and theology", Year VIII, no. 1-2/ 2011.

Pop, Traian, *Curs de criminologie*, Cluj, Institutul de Arte Grafice Ardealul, 1982.

Pradel, Jean, *Droit penal compare*, Paris, Dalloz, 1995.

Robinson, Olivia F., *The criminal law of ancient Rome*, Baltimore, John Hopkins University Press, 1995.

Ross, Alf, *On guilt, responsibility and punishment*, California, University of California Press, 1975.

Rotaru, Cristina, *Fundamentul pedepsei. Teorii moderne*, Bucureşti, Editura C.H. Beck, 2006.

Sandu, Eugen, Sandu, Florin, Ioniţă, Gheorghe, *Criminologie*, Bucureşti, Editura Sylvi, 2001.

Sima, Constantin, *Măsurile de siguranță în dreptul penal contemporan*, Bucureşti, Editura All Beck, 1999.

Şerban, Ionuţ, *The Greek and Latin cultures reflected in modern Romanian culture*, in "Revista de Ştiinţe Politice", no. 29/2011.

Idem, *Reconfiguring the international system.The 1989 events and the fall of an ideology*, in "Revista de Ştiinţe Politice", no. 42/2014.

Tanoviceanu, Ioan, *Tratat de procedură penală*, vol. III, Bucureşti, Editura Curierul Judiciar, 1942.

Udangiu, Eugenia, *Creativity and the pressures of contemporary world*, in "Network Intelligence Studies", 2014, Year IV, no. 2/2014.