

Critically examine
benthams idea of
punishment
philosophy essay



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Punishment could curb one's impulses by reducing and curtailing them. It could also possibly mean or be said that punishment could curb one's impulses by putting a step (kerb) there that forces them to make a choice: one may choose to drink him/herself to stupor or not, in other words, step off the kerb or not step off the kerb. I will therefore aim to ascertain if Bentham's theory is useful for stopping crime, controlling crime or reducing crime. However before proceeding, the phrase: 'the criminal' needs to be clarified. Which criminal is being spoken about? All criminals, some criminals: some kinds of crime or every kinds of crime? Not every criminal impulse can be curbed, because it may go against the theory of 'the greatest good for the greatest number'. For example The UK department for environment, food and rural affairs (Defra) issuing a letter to the industry informing warning of serious concerns over illegal, unreported and unregulated (IUU) fish entering the EU supply chain: this could lead to a commercial loss being incurred by the importer (Under current news 2013) therefore leading to the unhappiness of the majority.

Jeremy Bentham was a utilitarian philosopher; His principle is that of utilitarianism, a teleological ethical system: An ethical system that is concerned with the consequences or ends of an action to determine goodness (Determining moral behaviour, n. d.). Utilitarianism operates principally under the greater happiness theory, that is to say, utilitarians believe that one ought to only act in a way that the outcome of that act should create the greatest amount of happiness for the greatest for the greatest number of people. However, happiness cannot be measured.

Aiming at happiness for a great number has often been denounced as ‘illusionary’ because

Long-term happiness, and certainly happiness for a great number, is a fantasy (Ruut Veenhoven, 2004). Assenting that happiness is desirable is one thing, but the utilitarian precept is that happiness is the most desirable value. This is disapproved on the grounds that it is objected that it does not make sense to premise one particular value, and secondly, there are values that are positioned higher than happiness. The main objection against utilitarianism is that the greatest happiness principle justifies any way to improve happiness and hence permits morally rejectable ways, such as genetical manipulation, mind-control and political repression (Ruut Veenhoven, 2004)

He believes that when individual people pursue courses of actions, they weigh up the amount of pleasure they get out of something versus the amount of pain that it causes them and they choose the path that provides them with the greatest pleasure, in other words they calculate the gains and consequences of their action: Psychological Hedonism: the theory that the desires to encounter pleasure and to avoid pain guide all of our behaviour (Internet encyclopaedia of philosophy 2011). So the utilitarian criminology seeks to make the commission of crime more painful than pleasurable so that people can be guided towards the right conduct, behaviour and general philosophy on life.

Bentham begins his utilitarianism argument by giving his principle of utility which judges all actions based on its propensity to promote or diminish

happiness of whoever is involved, be it a community or an individual (Jeremy Bentham 1781). The principle of utility, forms the basis of all Bentham's thought. What he understood by 'happiness was a predominance of "pleasure over pain" Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne. They govern us in all we do, in all we say, in all we think: every effort we can make to throw off our subjection, will serve but to demonstrate and confirm it" (Jeremy Bentham, 1781). Also incorporated in his utilitarian approach is a way to measure the general tendency of any act and the way it affects a community. The computation is based on the seven circumstances of the act, which are: its duration, intensity, certainty or uncertainty, its remoteness or propinquity, its fecundity (the chance it has of being followed by sensations of the same kind), its purity (the chance it has of not being followed by sensations of the opposite kind), and its extent (number of people affected). With these circumstances in order, one can begin to analyse the nature of the act. After the completion of the process, according to Bentham an accurate assessment of the true nature of the act can be made (Jeremy Bentham 1781). However, this theory

According to Bentham if an action increases happiness and decreases suffering, then it is right but if it does otherwise then it is not right.

Bentham's utilitarian approach and principle is to act in a way that creates the greatest good for the greatest number. For example, if there is an

epidemic of sheep's being stolen and desired situation or outcome is for the people to stop stealing sheep, whoever is stealing the sheep should be caught and punished. As much as this a lot of pain for one person, it benefits the majority and also serves as a deterrence mechanism.

Let us now look at punishment as a whole. In behaviourism, punishment is referred to as the consequence for undesired behaviour: it can be positive or negative, depending on the nature of the consequences (B. F. Skinner, n. d.). Statistics from Crime survey for England and Wales (CSEW) shown on the website of the office for national statistics by estimate that there were 8.9 million crimes against adults in England and Wales in the year ending September 2012, an 8% decrease compared with the previous year's survey. This reduction was driven by statistically significant decreases in vandalism, burglary and vehicle-related theft. Also, the police recorded 3.8 million crimes in the year ending September 2012, a decrease of 7% compared with the previous year. Looking at these figures it can be said that punishment is effective as a deterrent factor because crime is reducing. However it is not very effective in stopping crime as people are still committing crime.

Garland (1990, p. 1) states that " The punishment of offenders is a peculiarly unsettling and dismaying aspect of social life. As a social policy it is a continual disappointment, seeming always to fail in its ambitions and to be undercut by crises and contradictions of one sort or another. As a moral or political issue it provokes intemperate emotions, deeply conflicting interests, and intractable disagreements".

Punishing an offender or an offence does not always guarantee a desired outcome as majority of offenders are given the chance to finish their sentences earlier than proposed; hence the means to be punished is defeated. Not all crimes are recorded and not all criminals are caught for example, not every street graffiti artist is caught. So if the uncaught criminals are still in the society, they will continue to commit crime Also research shows that genes may influence or cause criminal behaviour (Daily reporter, November, 2010). In light of this will it be right to punish an individual over something beyond their control. Looking at punishment in the UK, more specifically prisons in recent times, there is the argument that it defeats its purpose, as the offenders have too many comforts such as internet, television, private bathroom. In an article published by BBC news (April, 2008), Glynn Travis of the Prison officers association said inmates are happy to stay inside because they can get hold of drugs, mobile phones and even sex. He said a dealer regularly broke into a Yorkshire prison by using a ladder to enter cell windows - but no inmate used the ladder as a means of escape. This is an indication of how comfortable life in prison is: why not escape when the opportunity to do so is there. Mr Travis went on to say; " We have got no-go areas in certain prisons because prisoners have got complete control. There is not sufficient staff, there is no interaction between staff. He blamed a shortage of prison officers and relaxed regimes, where prisoners enjoyed satellite television and video game consoles. But government figures showing that in 2007, 92 prisoners committed suicide, compared with 67 the previous year, over throws the idea that prisons are too comfortable. (BBC news, April 2008)

Following this information, it defeats Bentham's greatest good for the greatest number theory as the purpose of the punishment has been whitewashed. But one could say that, because offenders are away from their loved ones and complete freedom that constitutes some form of punishment as they are being deprived from the things they love most. Also, in some cases they suffer sexual abuse and physical violence from staff members. In an article written by Eric Allison for the Guardian (July 2009) 'Sexual abuse is 'part and parcel' of prison life, with staff harassing female inmates in exchange for drugs, cigarettes and even early release'.

Jeremy designed the Panopticon: The Panopticon ("all-seeing") was a type of institutional construction that functioned as a round-the-clock surveillance machine: it was made up of several cell blocks interrelated by a central administrative block. It was designed in a way that made sure no prisoner could ever see the inspector who conducted surveillance from the restricted surveillance facility. The prisoner could never know when he was being surveilled (The Panopticon writings, 1995). Michel Foucault described the Panopticon as a machine for dissociating the see/being seen dyad: in the peripheric ring, one is totally seen, without ever seeing; in the central tower, one sees everything without ever being seen (Panopticism 1975).

The intention of the panopticon was for it to be cheaper than prisons of his time as it required fewer staff. "As the watchmen cannot be seen, they need not be on duty at all times, effectively leaving the watching to the watched" (The Panopticon writings, 1995). The Panopticon's design was also aimed at prisoners doing menial labour like; walking on wheels to spin looms or run a water wheel. This would decrease the cost of the prison and give a possible

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source of income. Bentham's design in today's society would be ideal as it would allow offenders to be effectively punished and not pampered. It will also save money as prisons today are overcrowded and cost too much.

" No moral concept suffers more at Bentham's hand than the concept of justice. There is no sustained, mature analysis of the notion (Gerald J. Postema, 1986)

The utilitarian theory is often criticized for being too hedonistic because it places the moral worth of an act only on how much that act affects happiness. Its teleological nature can also be seen as a problem as it pays no attention to the intention behind an action and can make acts of an immoral nature seem justifiably right. For example if a thief is stealing a woman's bag, but in the process of struggling ends up rescuing her from a speeding car and as a result saving her life. Though the initial intention was mischievous, it ended with the woman being saved, hence producing the greatest amount of happiness for the woman. Under the utilitarian theory this act is ethically acceptable and correct simply because the happiness was produced.

It is also criticized for not having a principle of equality embodied in a conception of justice.

In conclusion, looking at reduction of crime, it can be said that punishment reduces crime as figures referenced above show an 8% decrease in crimes against adults in England and Wales in 2012. Though it may reduce it, punishment does not stop crime, as statistics shows that people are

offending and committing crime. However seeing that not every crime is
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recorded the true rate and trend of crime cannot be fully ascertained.

Therefore it cannot be confidently said that punishment stops or controls crime. Rather than punish ideally, we should begin to think of getting rid of crime: ways of preventing people from committing crime needs to be identified. According to an article by the Daily mail reporter (November, 2010) research suggests that criminal behaviour could be imbedded in the genes. If it so that criminal behaviour is a matter of genetics, will gene modification be possible in the future? The society we are in today is fast growing in technology and scientists are forever experimenting, so it is a possibility. Embracing Tougher prison sanctions and operations, rigorous imprisonment for example death for extremely serious crime, harsh manual labour being undertaken by offenders could help in drastically stopping crime. But because the punitive nature of such regime, it is very much unlikely to happen within a Western democracy, where human rights are paramount and take the centre stage.