

Punishment sentencing and criminal law essay sample

[Law](#), [Criminal Justice](#)



As a society moves in the direction of neoliberalism, its punishment becomes harsher

Globalization in a country such as America has resulted to harsher penalties in punishment (Cavadino and Dignan, 2006). For instance, the death penalty is the most used form of capital punishment in the United States. Since globalization has resulted to the faster movement of information across borders, information concerning forms of punishment to be used among various nations has been readily accessible. Countries that are adopting correctional and penal policies similar to the ones in America have experienced an increase in imprisonment rates.

Prison populations have increased over the decades. Small crimes are being treated as severe crimes. In America, there is a concept of three strikes and zero tolerance, which have contributed to the increase in inmate populations. In the Netherlands, small offenders were normally put on a waiting list rather than imprisoning them. However, due to the flow of information, such a system has been viewed as not upholding the law resulting to its desertion. Increase in the prison population, in Netherlands, has been caused by the adoption of changes that have been evident in most countries, especially the developed ones. Australia and New Zealand have also adopted similar approaches to crime such as that in America.

Countries that have neoliberal approach are characterized by massive income differences between the rich and the poor. Job employment opportunities in such countries are few, and this drives members of the society to look for alternative means of survival. Such a society is extra

prone to an increase in crime rates. Higher crime rates increase the need to imprison offenders. In cases where the offences are increasing, such a society sees the need to have harsher punishment as a way of controlling the incidence of such a crime. Lack of any form of social cohesion in a neoliberal society is characterized by increased crimes.

Politics has contributed to harsher punishment. Presidential aspirants use reduction in crime rates as a campaign strategy. Once in office, the president is obliged to ensure that promises such as a reduction in crime rates are achieved. This is achieved through the establishment of tougher laws relating to crime and punishment. Politicians continue to challenge existing policies and laws as being moderate, and the only way to alter such a circumstance is by increasing the harshness of punishments to control crime. For example, the Reagan and Bush presidencies have resulted to the toughening of criminal justice and penal policies.

A neoliberal society tends to reward success with higher incomes and increased social status. Similarly, such a society punishes failure through formal sanctions and poverty. Neoliberals' societies are of the view that punishing offenders with a higher degree of severity is the best approach in reducing and controlling crime. Therefore, if an individual commits a crime, the only person to blame is the individual. On the contrary, a society that does not view a criminal as an individual that needs to be separated from the society tends to have less harsh forms of punishments.

Child Sexual Offences and Community Notification

In the recent past, there has been an increase in cases of child abuse reports, especially for children below 16 years. Victims or their family members have become more confident as pertain to reporting of perpetrators. Sexual abuse and sex related violence severely affects the lives of young children and could even damage them psychologically. Spokespersons and protectors of children's rights advocate for measures that are more stringent for sexual offenders.

Child Sex Offending

Research efforts around the issue of child sexual offending have been difficult due to the secrecy in commissioning of these offences and the unwillingness of victims to report offenders. Research shows that sexual offending is a multidimensional phenomenon that is influenced by many variables. As such, no clear conclusions have been made as concerns psychological and psychosexual background of the offenders. However, offenders who were released from prison were found to have a tendency to engage in sexual crimes soon after release.

Child offences are sometimes believed to arise due to men being given the opportunity to look after children. Sometimes disagreements in marriage and withdrawal of sex by the other partner may lead to such inhumane activities as sexually abusing children. According to Smallbone and Wortley, most sexual offenders have sexual relations with children whom they can easily access. In some instances, some offenders were part of a pedophile group that exclusively targets children, even those they do not know.

Responding to Sexual Violence against Children

The fact that sexual offenders could have serious psychological problems, alternatives to the conventional punishment modes in prison have come up to help such individuals. This includes the creation of rehabilitation programs for correction of behavioral patterns. In the 1970s, the rights of sexual offenders were largely considered by legislation and human rights activists. However, with time, the implementation of these laws slackened and people become more callous towards such offenders, sometimes opting to administer the law themselves. Laws relating to sexual offences take several forms: community notification, registration of sexual offenders, enhanced sentencing, and sexual predator laws.

Enhanced sentencing is the extension of time served in prison, other than the time that is required by law that is accorded to malicious or predatory offenders. This may include the inhibiting of a suspect from enjoying lenient punishments like periodic detention. The new length of time may be determined as a court of law sees fit according to the gravity of the case. Similarly, sexual predator laws are used to extend prison terms for offenders deemed to be an extremely serious threat to society and who, therefore, deserve continued isolation from the community.

Convicted sex offenders are registered to have a track of their history, identification (fingerprints), and physical address, especially after release from prison. This may be accompanied with a parole officer and regular visits to the police station as a security precaution on the activities that the offender does. Most countries have passed legislation in support of

registration of offenders. Community notification is the disclosure of the personal details of an offender to the population at large so that they may be on the lookout. The disclosure may be general, specific, or limited depending on the gravity of the need for the society to know. However, disclosure may lead to attacks on the offenders by community members or even mistaken persons losing their lives. Notification may be through news bulletin, internet posting, newspapers, or community meetings. Sometimes human rights organizations may make their own notifications to the public based on their private research or court findings. The main aim of community notification is to increase public awareness on the location and potential threat of past sex offenders.

Penological Principles

With time, sentences to sexual offenders were in the tune of prevention of further crime while attempting to offer psychological treatment to the offender. This attempt proved futile in several countries, and as such, approaches that are more callous had to be used. This included the continued incarceration of convicts due to the threat they posed to society. This would mean that community notification is just a way of making crime tolerable and alerting citizens to be wary of their own safety. The result is rough justice in the form of vigilantism.

Risk

A threat that poses significant harm to the safety of the community is treated with much care. Sex offenders who are viewed as a serious threat is considered as a being too dangerous for release. New legislations are aimed

at increasing the imprisonment of sex offenders. There is registration of sex offenders and community notification of sex offenders. Acts of terrorisms have resulted to the introduction of penalties for any crime that is deemed an act of terrorism. One can even be detained for a longer period than a suspect even without a prior criminal record. These laws punish and deter certain conducts as a means of prevention of any risk that may come to a community. Risk assessment of crimes that are considered a threat helps in identifying control strategies that can prevent the occurrence of such crimes.

Rehabilitation

Rehabilitation is aimed at three primary issues of concern, which include reducing drug related crimes, domestic violence occurrence and overrepresentation of indigenous offenders. Courts that deal with drug related crime are integrating treatment as a means of administering criminal justice. To be able to change crime related to drug treatment offers a better solution in changing behavior rather punishment. Each participant is placed under supervision on a regular basis. This provides a form of therapeutic effect on the participants. Decisions in drug courts are reached with input from a health perspective and the social aspect of an individual.

Furthermore, there are activities such as regular drug testing and home visits by case managers ensure that there is progress in the drug treatment approach.

For domestic violence, courts try to use social cultural and historic contexts to address the situation. For example, social context via a feminist strategy has been introduced in the courts to aid women charged with killing a violent

partner (Bull, 2009). This contributes to supporting the point of the offender from a self-defense point of view. Indigenous courts are addressing the correction of offenders to reduce over representation of indigenous offenders. Involving elders encourage incorporation of culture in the rehabilitation of offenders.

Restitution

Most of the interventions utilized in restitution depend on the ability of the offender to make the right choices. Strategies employed include youth justice conferencing, fines, and anti-hooning legislation. In youth justice conferencing, offenders are asked to confront the consequences of wrongdoing to encourage them to take blame of their own actions. The offenders practically apologize and offer help to the victims. Such an approach to crime seeks to address the deficiencies that are common in the courtrooms such as accountability and participatory decision-making. Anti-hooning legislation helps to offer restitution by confiscating and reducing the amount of freedom, temporarily, the offender has to enjoy (Bull, 2009). This legislation seeks to achieve peace in most neighborhoods by reducing incidences such as drunk driving.

References

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