

Criminal punishment: utility vs. retribution

Law



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Eva Rivera 3/7/13 Phil 108 - Ethics Short Paper #2 Criminal Punishment: Utility vs. Retribution Chapter 10 - Topic #3 The practice of punishment is part of our society and functions to maintain social order. However, there are a couple different view points regarding how to appropriately carry out punishment. Retribution and Utilitarianism are two philosophies that have very different views on the theory of punishment. Philosopher Immanuel Kant asserts that Retribution is the model for punishment.

Kant argues that punishment should be governed by two principles: 1. people should be punished solely for the reason that they have committed a crime and 2. punishment is to be in proportion to the severity of the crime (Rachels 142). For example, a small punishment is suitable for a small crime and a more serious punishment is suitable for a more serious crime. Furthermore, Retribution means that a person committing a crime will be held responsible for their actions.

Kant's moral theory states humans, having the capacity to reason and make choices for themselves, need to be held accountable. If we don't, then we are treating them as if they were not rational, reasonable agents. Furthermore, justification of punishment comes from the nature of the crime and does not consider if the consequences are good or bad, just that the person pays the penalty for having committed the crime. This view point is vastly different than the Utilitarian model of punishment (Bzdak PP). The Utilitarian view point always considers the consequences of punishment.

The foundation of Utilitarianism is that happiness is the ultimate goal and we need to do whatever we can to maximize this. Punishment is wrong (immoral) because it is, inherently, an unhappy circumstance. However,

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punishment is moral if the good outweighs the bad. Punishment should lead to good consequences; it should help the person being punished so both society and the criminal benefit. The principle of rehabilitation is at play here and the goal is to do whatever is needed to make the criminal a productive member of society.

The view of Retribution not only differs with Utilitarianism on the view of consequences but also human integrity or dignity. The Utilitarian justification of rehabilitation is not in line with Retribution. Retributivists would say that it is disrespectful to humans to treat them as though they were not rational beings and because of this, need to be rehabilitated. As stated before, there are only two principles governing punishment - having done the crime and receiving an appropriate punishment - disregarding other reasons like consequences.

In my opinion, I think that retribution is more appealing than the utilitarian view. The biggest factor that sways me to retribution is the concern of those who don't commit crimes. Retribution is only concerned with those who commit crimes be held accountable. Utilitarians can easily justify punishing an innocent person on the grounds that it would benefit the greater happiness of the world. References Rachels, S. , & Rachels, J. (2012). The elements of moral philosophy(7th ed.). New York: McGraw-Hill.