

Example of the retributivist and utilitarian essay

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



Arguably, there are various theories that justify the criminal punishment. As a matter of fact, punishment is very crucial in the society since it is seen as a corrective tool. Punishment entails the strategic and intentional infliction of suffering and pain on people who are guilty of certain crime. Scholars assert that utilitarian and retributivist theories help in elaborating on the justification of criminal punishment. What are debatable are the differences that the theories bring out when justifying punishment. Punishment of its own necessitates a reasonable form of justification, especially in terms of moral and comprehensive political philosophy. The rationalization and justification of punishment is between the two concepts as well as their related theories; these concepts are retributivism and utilitarianism. In this case, retributivism focuses primarily on issues pertaining retributive justice that entails inflicting pain or harm to transgress. On the other hand, utilitarianism primarily emphasizes on the justification of punishment by focusing on its consequences. Each theory has its virtue and strategies of justifying punishment, but neither utilitarianism nor retributivism is a complete explanation of the necessity of punishment in the community. Thinking deeply about the rationale behind punishment raises a lot of questions. The most fundamental question that arises is what should offenders face punishment. It is for this complexity that the issue of criminal punishment as been theorized by many philosophers, criminologists, and social theorists. One of the ideas that are employed to set the justification of criminal punishment is that punishment prevented criminal activities in the past (Corlett, 2008). It implies that when individuals are punishment they are deterred from committing punishment in the future. This idea is developed

by utilitarian theory and utilitarian philosophy. As a theory of ethics and punishment, utilitarianism focuses on consequences of specific actions for a certain group. Therefore, the moral theory associated with utilitarianism proposes that wrong and right are products of both bad and good actions (Murphy, 2006).

Utilitarianism theory has the idea that related to the maximization of happiness on its net level. Punishment is therefore important in the case that happiness is to be increased. Hence, punishment is imposed on individuals who commit crime so as to increase pleasure and reduces pain. In addition, utilitarianism believes that punishment is justified when it is imposed to past offense because it guarantees the societal benefits in the future (Murphy, 2006). The punishment that is imposed to criminals increases the ultimate level of happiness in society. This idea is achieved through the fact that punishment prevents future criminals and future crimes, and at the same time rehabilitates convicts towards being productive.

According to utilitarian theory, the decision to execute punishments is based on the idea to promote the overall good in the community. The idea to promote the ultimate good in society is not an exception to the laws and legal requirements of punishment. Therefore, punishment according to this idea should be executed to individuals who break the law and violate legal requirements in society, which may lead to a reduction of societal ultimate good. As a matter of fact, the performance of the criminals tends to harm the community or reduce the ultimate good of the community. Hence, the only way according to utilitarian is to attach punishment to such actions in order to eliminate the option. The logic behind these ideas is that the criminal will

always suffer the punishment to any action that is unhappiness-causing, and in the long run the overall happiness among individuals and the community will be greater (Murphy, 2006). The justification mechanism behind the idea of increasing happiness differ from one scenario to another. The idea of attaining maximum happiness by attaching punishment for certain actions focuses on three aspects of punishment (Primoratz, 1997). This includes deterrence, rehabilitation as well as reformation. Therefore, the utilitarian justifies punishment with an ultimate goal of achieving greater happiness and good.

In every society, security is one of the fundamental requirements that people need,. In fact, in the 21st century crime has tremendously risen taking away the social, economic, and political debates. Utilitarian theory asserts that punishment is justified because it increases the level of security in the community. According to utilitarian, the world without punishment is always insecure; hence, in order to achieve maximum security it is of essence to implement punishment of various crimes. In doing so, the benefits and cost of punishment in regard to societal progress should be considered (Murphy, 2006). According to utilitarian is the type of punishment to impose actions to criminalize, as well as principles of dispute resolution. The ultimate objective of fulfilling such factors should be to improve the level of security in the society. The idea of security as a justification of punishment has received a lot of critics. This is because it is viewed that punishment could affect the innocent individuals who were not in any way a threat to societal security (Brody, 2000). In addition, utilitarian believe that those crimes that punishment do not deter should not be punished. This principle contracted

the justification of punishment since the measure of deterrence when a punishment is imposed cannot be determined.

Retributivist theories are also crucial in justification of criminal punishment. According to these theories future happiness is very essential and it is attained through effective rules and regulations. Just like utilitarian theories, it has developed various ideas that are used to justify the issues pertaining to criminal punishment. In fact, as per retributivist, the punishment is always justified because those imposed on deserve it (Corlett, 2008). Retributivism comes in various ways which include pure or positive and limiting or negative. One of the idea stated by retributivist theories are that there is a link between morality and punishment. In this case, the punishments are justified on the idea that morally blameworthy behavior must be punished. The moral concern of individuals in the society overruled all other aspects of social concerns. Hence, it is mandatory to attach punishment to activities and behaviors that are morally blameworthy.

The only main concern according to retributivists is that the principle of proportionality on issues of punishment should be observed. Therefore, punishment becomes justified if it is directly proportional to the crime committed. Hence, retributivists are committed in classifying of ranking criminal activities from less grave to more grave and on the other hand ranking punishments to range from more severe to less severe. The only challenge in ranking punishments and crimes is the aspect of proportionality (Brody, 2000). It is very difficult to exactly ascertain the proportionality between crime and punishment.

Certainly, the principle of eye-for-an-eye is also another idea that justifies

punishment according to retributivists theories. In this case, punishment is justified because individuals should be punished equally to the pain suffered by the victim. The principle of equality in the retributivist is equal to the ethical decision-making by utilitarian. The justification of punishment based on this idea is actually justifies the arguments for capital punishments in the world today. For example, if the offender committed murder, then the only way to achieve justice and to justify punishment is subjecting the criminal to death penalty (Murphy, 2006).

The idea developed by retributivists theories in justification of criminal punishment focus son obtaining justice. In fact, it completely deserts the main importance of punishment. According to retributivists theories, criminal are always punished, meaning they receive what they actually deserve for their actions. Retributivist asserts that punishment is an intrinsic good, in that, punishment is justified by the idea that it maintains social unity, reduces violence, prevents crime, as well as granting citizen satisfaction (Primoratz, 1997). Perhaps, the idea of retributivist in the justification of criminal punishment is that all moral wrong that falls on the on the objectives of the law must be punished. Nevertheless, this view comprehends that punishment is correlated to the law of the land and the definition of moral good. The crime is punishable because it is defined by the rule of law, and also it is justified if the crime be punished goes against the laws of the land. The punishment in society is justified as a way of responding to wrongful deeds.

The retributivist and utilitarian theories have developed various ideas to justify why punishments should be imposed. The ideas stated by utilitarian

and retributivist may differ, but in the long run it tries to justify the essence of criminal punishment in society. Utilitarianism puts more focus on the positive benefits that is achieved by imposing punishment, especially in attaining happiness and reducing pain. On the other hand, retributivism focuses on desert and justice, without putting into consideration the outcome of the punishment, whether negative or positive (Murphy, 2006). Retributivist justifies punishment based on various ideas which include security, moral wrongdoing, as well as justice. Utilitarianism bases its justification of punishments on attainment happiness, maximization of good, and reduction of pain.

The utilitarian and retributivist theories that justify punishment in the community is of great importance because it reflects the beliefs, values, as well as attitudes of the society. In the society, the system of punishment is in most cases are and ubiquitously necessary, because it justifies the infliction of punishment and elaborates on the significance of morality. The two theories are very crucial in its philosophical framework on the justification of criminal punishment (Corlett, 2008). The extent of the desert and consequences are what matter in both theories. In critical analysis, the system of punishment that each theory supports leads to the definition of moral beliefs as well as justification of punishment.

The two theories give the accounts on the justification of criminal punishment based on the ideas that punishment is always deserved and does creates more good. In general perspective, the two theories incorporate essential principles as and ideas that justify the essence of criminal justice. The fact that punishment is deserved means that it is the responsibility of

the wrongdoers to be accountable for their crimes (Murphy, 2006). The society today is full of criminal activities and the more the punishment is justified the more it gains support. Based on retributivist and utilitarian ideas, it is evident that crime will be reduced when punishment is applied. Hence, according to retributivist and utilitarian theories, criminal punishment is justified.

References

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