

The purpose of punishment within the criminal justice system



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What role does punishment serve within the criminal justice system?

Consider the part played by reductivism, incapacitation, retribution, deterrence and rehabilitation as by-products of the perceived need for the criminal justice system to punish offenders.

How have political policies and other ideologies affected the state emphasis on the need to punish offenders?

In the following paragraphs it is going to be explained the role of punishment within the criminal justice system. Furthermore, we are going to get involved with theories and objectives related to punishment such as: reductivism, deterrence, rehabilitation, incapacitation and finally retribution.

Beginning our case study we have to argue that there is considerable controversy over the effectiveness of punishment in reducing crime, but whether or not its actual effectiveness, still is the only method being used conforming someone who made a misdeed, back to society and freedom. “ Punishment can be simply defined as a legally approved method designed to facilitate the task of crime control” (Carrabine, 2004), and its main purpose is to rehabilitate the offender, expiate the victim and dissuade others from becoming wrongdoers. In order to successfully create a holistic view on the matter, we have to focus on many punishment perspectives and theories as it is the only way for a critical evaluation. “ punishment as a social institution is an inherently complex business that needs to be approached from a range of theoretical perspectives as no single interpretation will grasp the diverse meanings generated by punishment” (Carrabine, 2004).

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The reductive theory of punishment justifies that punishment occurs because it helps to prevent and reduce future consequences of crime, acting as a forward-looking theory for the general good. Moreover, claims that if punishment takes place, future crime will be less than if no penalty were inflicted. “ For punishment to reduce future crimes, the pain and unhappiness caused to the offender must be outweighed by the avoidance of unpleasantness to other people in the future” (Cavadino, 2002). Therefore, it is a moral action against criminals (famously advanced by Jeremy Bentham 1748-1832) since it produces the greatest happiness of the greatest number of people. Nevertheless, there are many mechanisms of reduction which will be shown below.

Deterrence based on utilitarian theories, is a method of reduction and its main perspective is that if you cause someone’s fear, then he will be afraid to offend and break the law (tough on crime). Moreover, separates deterrence into general and individual justifying that general is when punishment dissuades others from following the offender’s example, in spite of individual deterrence which aims to teach delinquent not to repeat the behaviour. Deterrence lacks to produce strong and validate evident of its effectiveness as no certain penalty prevented someone from committing a given crime.

What is more, referring to the individual deterrence, my opinion is that we cannot say whether or not an offender stopped his criminal behaviour, simply because not all crimes are being convicted. Also, according to official crime statistics, I believe, there is not such effectiveness as Michael Howards supported about prison/punishment and toughness on crime. ‘ Prison works. <https://assignbuster.com/the-purpose-of-punishment-within-the-criminal-justice-system/>

It ensures that we are protected from murderers, muggers and rapists- and it makes many who are tempted to commit crime think twice' (Michael Howard, Home Secretary 1993).

Rehabilitation is another mechanism of crime reduction which is going to be produced and evaluated on the following paragraphs. According to rehabilitation the idea of punishment is to apply treatment to the offender so that he is made capable afterwards to return back to the society as a law-abiding member. Rehabilitation is viewed as a humane alternative comparing to the "harshness" of retribution and deterrence giving more a programme function to the punishment, without that meaning that an offender would receive a more lenient penalty for his offence. An important feature of rehabilitation is that the offender could stay on probation whether that means outside prison or inside until he is thought to be ready. Critics though assume that if the prison administrator is the responsible one who decides if offender made a progress and he is ready to go, then corruption may occur which will falsify the true situation. Finally, another issue is that an offender guilty for minor crime probably could not tolerate lengthy detentions simple because of inability or refusal to adopt a subservient attitude toward prison officers and authority in general.

Continuing our study we will refer to retributive theory which is in total antithesis of reductivism and justifies that punishment came as result of criminality. "An attractive feature is that retributivism is a natural connection between the retributive approach and the idea that both offenders and victims have rights. Reductivist theory always finds it difficult to encompass the notion of rights, even when it comes to providing <https://assignbuster.com/the-purpose-of-punishment-within-the-criminal-justice-system/>

entirely innocent people with a right not to be punished. Retributivism has no such problem, since it follows automatically from the retributive principle that it must be wrong to punish non-offenders”.

Criminals, according to retributivist principle deserve the punishment because in some way, evil for evil somehow make a right. Additionally, according to retributivism, severity of a punishment should be proportionate to the gravity of the offence (tariff). What is more, retributive punishment, argues that applies fairly and equally to all of us as long as we all live in the same equilibrium followed by the same norms and values. The main issue with such a theory is that it would be objective only if we were all genuinely equal sharing the same advantages. “ Detected offenders typically start from a position of social disadvantage” (Cavadino, 2002). From the moment retributive punishment tries to inflict equality restoring the balance, then increases inequality rather than do the opposite.

The last theory refers to the act of making the offender not capable of committing a crime and is known as the incapacitation theory. According to that, offenders who have committed repeated crimes or thought to be dangerous are being punished by execution or lengthy incarceration (life imprisonment). Such a punishment though unfortunately makes it difficult to identify that kind of offenders. Thus, it is extremely controversial the principle of incapacitation especially to those who assist that punishment should advocate equal retribution followed by dignity. An important controversial example evaluating incapacitation is the chemical-castration of sex offenders (against children) with hormonal drugs which was first adopted

in the U. S of California in 1996 and proved that drugs alone did not make the offender incapable of committing sex crimes.

To conclude, I would like to say that I have not come to a conclusion yet on whether or not punishment actually helps and rehabilitates the delinquents. But I am sure that punishment so far is the function which separates those who live legally and those who do not. I also believe that the fear of punishment changes people behaviour a lot, as we all are afraid of punishment... is that not true? Ultimately, I would like to finish with Sir Thomas Mores opinion which finds me totally agreed. “ Society first creates thieves, and then punishes them for stealing. There has always existed a curiously symbolic relationship between the criminal and society. It is not so much that society tolerates crime, rather the structure of modern society inevitably creates situations and circumstances in which crime occurs”(Weisser, 1979).