

Justify punishment in modern society

Law



1. There are two reasons to justify punishment in modern society. The utilitarian justification is that punishment will prevent the future occurrence of a crime. As a deterrent, the existence of the punishment prior to the crime is supposed to prevent people from committing the crime since they will be afraid of the punishment involved. This justification is based upon the utilitarian philosophy. The other justification, has to do with punishing a person who has committed a crime, leaving a victim who seeks retribution. This is known as a retributivist theory since it seeks to punish the perpetrator of the crime. (“ The Purpose of Criminal Punishment”, 2004). There are also other theories such as the just deserts, rehabilitation, incapacitation, that also try to justify the use of punishment in modern society. However, the 2 aforementioned theories are the widely popular ones.

2. Although the saying “ crime does not pay” is widely popular, I would have to disagree with this statement. The connotation of this saying is that a criminal will always get caught. However, the police department is swamped with unsolved and cold cases. Our judicial system also finds itself often foiled by a technicality that often sets a criminal free. There are many ways and means that a criminal can get out of the accusations provided he has a good lawyer who knows how to find and work loopholes in the law. That is why I cannot agree with this statement.

3. The Quakers were of the idea that criminals could be reformed if they were imprisoned in a building that looked blank and lifeless upon their entrance. The Quakers strongly believed that in a place where a solitary, and sad existence was the way of life for the prisoner, he would have time to reflect upon his crimes which would in turn make him penitent and convince

<https://assignbuster.com/justify-punishment-in-modern-society/>

him to reform his ways upon leaving the penitentiary. To correctly quote the Quaker policy on solitary confinement;

No prisoner is seen by another after he enters the wall. When the years of confinement have passed, his old associates in crime will be scattered over the earth, or in the grave and the prisoner can go forth into a new and industrious life, where his previous misdeeds are unknown. (Walsh, “ Black Hoods and Iron Gags”)

The end result of this Quaker experiment? Most of the inmates either went insane or died after a few months. That is why the penitentiary saw itself being reformed by 1903 to become more humane in the treatment of the inmates.

4. The issues of social class, gender, age, and victim characteristics are often pointed to as having a tremendous influence over the jury and judge when it comes to sentencing the guilty party. However, aside from juvenile related crimes, social class, and gender are not really considered by the judge when sentencing the guilty party because those are not part of the official lawful criteria to be considered in the sentencing of a guilty party. Instead, the extent of the guilt of the person based upon the gravity of the offense and victim characteristics, cruelty of the offender, circumstances of the case, number of offenses the guilty party has committed, and whether he was the main offender or accessory all play a role in determining the sentence of the guilty party.

5. Determinate and Indeterminate sentencing dictates the range of punishment that a judge can mete out. In the case of a determinate sentence, the judge can only apply a pre-set length and type of punishment. This cannot be changed by the judge or parole board. The guilty party has to

<https://assignbuster.com/justify-punishment-in-modern-society/>

serve the entire sentence in such instances because parole is not an option. In the case of an indeterminate sentence, the judge is allowed some leeway when it comes to determining the length of time to be served by the guilty. The judge can sentence the guilty to a minimum term and, although the release date is not set in stone, the parole board has the discretion to release the client when they feel he has met the requirements for the punishment of his crime.

6. These days, the judges have to consider the humane treatment of the guilty party when deciding upon his sentence. But this emphasis on the humane treatment of the accused is what is causing problems in the sentencing process. In the case of race related crimes, the social status of the victim becomes a veiled consideration. Another problem judges face is finding a balance between a fair and unjust prison sentence. He needs to figure out for himself when a sentence is long enough to make the accused suffer for his crime. With the inclusion of mass media in the coverage and reporting of active cases, judges are often in the spotlight when it comes to sentencing, thus causing another problem for the judge since his every action is scrutinized by the public and “ legal” experts who are more than happy to point out what he did wrong. There are more problems facing judges when it comes to the fair sentencing of the guilty parties, what I have mentioned is just the tip of the iceberg.

Sources

Kaufman, I. (1960). Sentencing: The judges problem. [theatlantic.com](http://www.theatlantic.com/past/docs/unbound/flashbks/death/kaufman.htm). Retrieved from <http://www.theatlantic.com/past/docs/unbound/flashbks/death/kaufman.htm>

N. A. (2014). Indeterminate vs. determinate prison sentences explained. <https://assignbuster.com/justify-punishment-in-modern-society/>

criminaldefenselawyer. com. criminaldefenselawyer. com. Retrieved from
[http://www. criminaldefenselawyer. com/determinate-sentences. cfm](http://www.criminaldefenselawyer.com/determinate-sentences.cfm)

N. A. (2004). The purpose of criminal punishment. sagepub. com. sagepub.
com. Retrieved from [http://www. sagepub.](http://www.sagepub.com/upm-data/5144_Banks_II_Proof_Chapter_5.pdf)

[com/upm-data/5144_Banks_II_Proof_Chapter_5. pdf](http://www.sagepub.com/upm-data/5144_Banks_II_Proof_Chapter_5.pdf)

Walsh, M. (n. d.). Black hood and iron gags. missioncreep. com.

missioncreep. com. Retrieved from [http://www. missioncreep.](http://www.missioncreep.com/mw/estate.html)

[com/mw/estate. html](http://www.missioncreep.com/mw/estate.html)