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Number 1

What is punishment?

The infliction or imposition of a penalty as retribution for an offence.

Purpose of punishment:

Punishment has five recognized purposes: deterrence, incapacitation, rehabilitation, retribution, and restitution. One popular justification for punishment is the just deserts rationale: A person deserves punishment proportionate to the moral wrong committed. A competing justification is the deterrence rationale: Punishing an offender reduces the frequency and likelihood of future offences.

Just deserts is a theory which is designed to promote equality and fairness of sentencing for the imposition of a sentence. The principle behind just deserts is that the punishment should fit the crime. When such an instance occurs, it is said that the offender has received their just deserts.

What is "Just Deserts"?

Just deserts also known as the proportionality principle is as a philosophy of punishment, argues that criminal sanctions should be commensurate with the seriousness of the offense. This principle attempts to address the issue of how much punishment should be inflicted and how it answers that the measure of punishment given must be equal in proportion to the seriousness of the crime and it should be no more no less. Discussion:

Recently, some criminal justice scholars have advocated that the "just deserts" should be the guiding policy for sentencing offenders. "Just Deserts" uses moral grounds to justify the punishment of criminal offenders: they are to be deemed deserving of sanctions because of what they have done, and the appropriate level of sanction would be determined by;

1. Seriousness of the offense which the person was convicted

2. The individual's past record of offending.

In addition, sentences would be fixed by the legislature as a way of reducing or eliminating the discretion of sentencing judges and parole boards which would be abolished.

The legislature would be responsible for creating a sliding Scale of penalties for specific offenses, based on the seriousness of the criminal offense, the aggravating and mitigating circumstances associated with the offense, and the offender's prior criminal record.

First-time offenders would be accorded reduced penalties, while recidivists would be punished more severely. The logic for such a policy is that recidivists are viewed as being more blameworthy than first-time offenders. Implicitly then, offender blameworthiness becomes relevant for determining appropriate punishment, and prior contact with the criminal justice system is used as an indicator of blameworthiness Some "just deserts" advocates argue that incarceration should be reserved only for the most serious, violent and property offenders, in those instances when the individual clearly poses a threat to others. Reduced reliance upon incarceration as an appropriate sanction is justified by deserts advocates on the grounds that depriving an individual of his/her liberty for even a short period of time is a very serious sanction and, as such, should be reserved for only the most serious offenders. Thus, with reduced reliance upon the penal action, increased use of community based correctional resources would occur and a reduction in prison overcrowding could well result.

In summary, “just deserts” is an attempt to blend justice with fairness. By focusing on the past behavior of the offender, punishment is not based on predictions of the likelihood of recidivism or on how long it will take to “change” the offender. Instead, the seriousness of the offense and past record of offending become the substantive basis for determining appropriate punishment. Policies that are based in “just deserts” attempt to limit judicial sentencing discretion, and advocate the abolition of parole boards. Instead, sentences are fixed by the legislature which reduces the likelihood of disparity: two individuals convicted of the same offense receive not only the same sanction (e.g., prison) but also serve the same period of time (e.g., five years). The focus, then, is on the criminal act and not on the criminal as is true of other policies. “Just deserts” does not consider diagnosis and treatment, predictions of future criminal activity, or deterrence

Deterrence:

Deterrence prevents future crime by frightening the defendant or the public. The two types of deterrence are specific and general deterrence. Specific deterrence applies to an individual defendant. When the government punishes an individual defendant, he or she is theoretically less likely to commit another crime because of fear of another similar or worse punishment. General deterrence applies to the public at large. When the public learns of an individual defendant’s punishment, the public is theoretically less likely to commit a crime because of fear of the punishment the defendant experienced. When the public learns, for example, that an individual defendant was severely punished by a sentence of life in prison or the death penalty, this knowledge can inspire a deep fear of criminal prosecution.

Incapacitation:

Incapacitation prevents future crime by removing the defendant from society. Examples of incapacitation are incarceration, house arrest, or execution pursuant to the death penalty. Incapacitation is used primarily to protect the public from offenders who are seen as sufficiently dangerous that they need to be 'removed' from society for a period of time, which is achieved usually by sending the offender to prison (incarceration)

Rehabilitation:

The concept of rehabilitation rests on the assumption that criminal behavior is caused by some factor. Rehabilitation prevents future crime by altering a defendant’s behavior. Examples of rehabilitation include educational and vocational programs, treatment center placement, and counseling. The court can combine rehabilitation with incarceration or with probation or parole

In some states, for example, nonviolent drug offenders must participate in rehabilitation in combination with probation, rather than submitting to incarceration

Restitution:

Restitution prevents future crime by punishing the defendant financially. Restitution is when the court orders the criminal defendant to pay the victim for any harm and resembles a civil litigation damages award. Restitution can be for physical injuries, loss of property or money, and rarely, emotional distress. It can also be a fine that covers some of the costs of the criminal prosecution and punishment

Retribution:

Retribution prevents future crime by removing the desire for personal avengement (in the form of assault, battery, and criminal homicide, for example) against the defendant. When victims or society discover that the defendant has been adequately punished for a crime, they achieve a certain satisfaction that our criminal procedure is working effectively, which enhances faith in law enforcement and our government.

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Number 2

2a. The writer is of the opinion that an offender who has been found guilty of committing a capital offense should get the death penalty.

Discussion:

What is a capital offense?

Crimes that are punishable by death are known as capital crimes, capital offences or capital felonies, and vary depending on the jurisdiction, but commonly include serious offences such as murder, mass murder, aggravated cases of rape, child rape, child sexual abuse, terrorism, treason, espionage, sedition, offences against the State, such as attempting to overthrow government, piracy, aircraft hijacking, drug trafficking, drug dealing, and drug possession, war crimes, crimes against humanity and genocide, and in some cases, the most serious acts of recidivism, aggravated robbery, and kidnapping.

A very harsh but true reason is that the death penalty makes it impossible for criminals to do bad things over and over again. Executing someone permanently stops the worst criminals and means we can all feel safer as they cannot commit any more crimes. If they are in prison they can escape or be let out on good behavior.

Capital offences are serious offences which should not be treated lightly. Death penalty being melted out supports 3 out of 5 of the purposes of punishment which are deterrence, incapacitation and retribution.

2b. If the offences were simple offences this writer's answer of death penalty in the above would not be the same rather it will be;

1) Fines 2) House arrest and electronic monitoring 3) Probation 4) Community service