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CRIMINOLOGY

LPI 304

PUNISHMENT

## What motivates the just desert principle of punishment?

### Discuss

The philosophy behind the just desert principle represents the idea that a fair and appropriate punishment related to the severity of the crime should be awarded to the offender. A person deserves punishment proportionate to the moral wrong committed. There are claims that punishment's primary purpose is to pay back harm doers for their past crimes; others claim that its function is to prevent or reduce future crimes.

There are many situations in which people wish to punish another. When a person is unjustly harmed through assault or robbery, people typically experience a strong desire to punish the offender. What is the source of this motivation, the justification for this behavior? When people, as voters, jurors, and citizens, exact punishment from a perpetrator for violating societal norms, what are they trying to achieve? In short, why does society punish? Most scholars agree that punishment in some form is necessary, they disagree on the underlying reason that makes punishment an appropriate and justified response to social norm violations. The just desert perspective holds that when an individual harms society by violating its rules in some normatively unacceptable way, the scales of justice are out of balance, and sanction against the individual restores this balance. Under this perspective, the perpetrator deserves to be punished in proportion to the past harm he or she committed. The punishment is an end in itself and needs no further justification hence the name just desert or deservingness perspective. The theory of just deserts is retrospective rather than prospective. The punisher need not be concerned with future outcomes, only with providing punishment appropriate to the given harm. Although it is certainly preferable that the punishment serve a secondary function of inhibiting future harm doing, its justification lies in righting a wrong, not in achieving some future benefit.

The central precept of just desert theory is that the punishment be proportionate to the harm the task of a just deserts theorist, then, is to assess the magnitude of the harm and to devise a punishment that is proportionate in severity, if not in kind. Kant (1952) recommended censure proportionate to a perpetrator's "internal wickedness," a

quantity that may be approximated by society's sense of moral outrage over the crime. There are several core components of an offense that determine moral outrage and the magnitude of punishment according to just deserts theory. It is these factors, then, that should trigger the motive to punish if people adhere to a just deserts theory of punishment.

Magnitude of harm. First and perhaps most important is the magnitude of intended harm. This is indexed most typically by the type of crime (e.g., petty theft, felonious assault) and the degree to which it offends the sensibilities of citizens. Extenuating circumstances. Second, mitigating or exacerbating circumstances often affect the moral outrage felt by citizens and, hence, the magnitude of punishment that is called for under the just deserts theory. According to just deserts the punishment of the offender must be fairly and equally apportioned to all individuals who commit the same crimes. This can sometimes be a controversial area of theory as the circumstances concerning the commission of crime vary. A person who embezzles to maintain a lavish and lascivious lifestyle is judged more harshly than one who embezzles the same amount for the relatively noble purpose of subsidizing the company's underpaid and exploited overseas workers. Although the amount of harm is constant in this example, the punishment is not. Just deserts theory is highly sensitive to such contextual factors that mitigate or exacerbate the degree to which a perpetrator deserves punishment.

The motivation behind the just desert principle is to ensure that offenders will receive punishment that attempts to equate their offense. The principle aims at inflicting pain the offender has caused another in order to maintain balance in the moral sense. It is of general knowledge that every action has a counter action/reaction, the just desert principle aims at hurting an offender the same way he hurt another.

## As a criminology student, what do you think is the most effective way of punishing and treating capital offenders

Capital offenses are crimes that carry the possibility of death sentence such as murder, treason, terrorism, rape, perjury, treason, blasphemy, incest, espionage, genocide and other related offenses. The theories of punishment include deterrent theory which is designed to avoid future crime and thus make example of each defendant, the retributive theory gives punishment equivalent to the grievance the offender caused, the preventive theory uses the restraint that an offender is culpable for death, exile or imprisonment if he repeats the criminal act this society must be protected from criminals and the reformatory theory has an objective to reform the offender.

Types criminal punishment includes; Incapacitation which seeks to prevent future crime by physically removing criminals from the society, Deterrence which aims at persuading citizens and possible reoffenders to conform to the rule of law, Retribution which prevents crime by giving victims or society a certain sense of

satisfaction that a defendant has been punished appropriately ,Rehabilitation focuses on helping criminals and prisoners overcome the barriers that led them to committing criminal acts ,Restoration the goal of restoration is for the offender to make direct amends to both the victim and the society in which the crime was committed.

The six forms of punishment are capital punishment, imprisonment, probation, restitution, fine and community service

Capital punishment applies to those who commit first degree murder under extreme aggravated circumstances, the way of capital punishment include the death penalty. Imprisonment regardless of its purpose for incapacitation or rehabilitation , is putting someone in prison taking away the freedom of the offender for a specified amount of time. Probation is when an offender is allowed to live within the community under strict supervision with incarceration .Fines may be imposed in addition to probation or imprisonments if the judge feels like the offender is not a threat to community, a fine alone may be punishment. Community service is a form of payment for the victim of the crime committed, it's an act of kindness for the community.

There are quite a number of capital offenses and I believe that the different offenses should have different punishments and treatment.For instance the offense of rape deserves retributive punishment as it is an act of the mind . It is impossible to argue that such an offense is a mistake.It is impossible to 'unknowingly' force someone to have sexual relations.I am of the opinion certain crimes like blasphemy and incest seeing that these crimes does not put the community in fear of danger or harm , they require rehabilitation and restoration while crimes like murder and armed robbery require all the forms of treatment and punishment as everyone in the community is a possible victim .

## Will your answer be the same if the accused was charged for a simple offense?

Simple offense means any offense punishable , on summary conviction before a mafia court, by fine , imprisonment or otherwise. It includes contempt of court,obstructing postal mails , unlawful wearing of army uniform, selling army uniforms to unauthorized persons . Simple offenses are uncomplicated crimes their punishment includes fines, community service or sentences of really short period of time.Simple offense does not put the community in danger neither does it put anyone in fear of imminent harm or danger so no the punishments for capital offenses would not apply to simple offenses with the exception of fines and community service.

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