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**‘JUST DESERT’ PRINCIPLE**

In a truly just world, each person would be rewarded or punished according to the

rightness or wrongness of his or her actions. This is, of course, the way the world should

work, even though the real world does not always, or even often, work this way. **As J.**

**McDole (2010)** reminds us, “deciding whether an action is positive or negative is

difficult”. Difficult or not, it is absolutely essential to determine the quality of

an action before assigning a reward or a punishment to that action.

The concept of ‘just desert’ is one poorly understood outside of legal circles. It has its derivatives from the Latin maxim **noxiae poena par esto.**

The public should learn to be less critical of judgments handed down

The term’s common usage is naturally confusing for outsiders and, even once its true meaning is established, it can be a confusingly complex, and, at times, self-contradictory category of judicial philosophy.

The phrase ‘just desert’ comes from the 16th century. A clearer, modernised version would be that which is **‘justly deserved’**. In that respect, the conventional sensible interpretation of the phrase is not so far off. Many believe the phrase refers to a dessert, as in a treat, and, therefore, refers to a just reward for a good deed. In fact, the term correctly applies to deeds both good and ill but, from the perspective of criminal justice discipline, it is most often applied with regard to negative behaviour. It is, after all, seldom the duty of the courts to reward those who have committed honourable or noble acts

The difficulty arises from the fact that rightness and wrongness are relative, and that what is right in one situation might be very wrong in another situation, while what is wrong in most situations might be right in specific situations. In what might be called a perfect world, the people who do good things would always be rewarded by having good things happen in their lives. The people who do bad things would always be punished by having bad things happen in their lives. At the same time, it would be reasonable, in such a world, to assume that people for whom good things happen are good people, while people for whom bad things happen are bad people. This is far too simplistic for the complex world we live in. While a person who does bad things, such as lying, stealing, cheating on his or her partner, or putting others down, might deserve to be punished by having bad things happen in his or her life, it is often better to try to rehabilitate a wrongdoer by giving him or her a few good things as an incentive to do better things in the future. More difficult than deciding what punishment is appropriate for a given wrong action, or than deciding whether or not wrong actions should be punished, is deciding what actions are wrong in what situations. Most people would easily agree that lying, cheating, stealing, and killing other humans are all wrong actions. Most people would not even need to think about the question. What would happen, however, in the case of a fourteen-year-old single mother who finds herself and her baby suddenly living on the streets without a home, without a job, without an education, without family supports, and without food? She has been turned away by the over-crowded shelter. She has been turned down by social services because she lacks identification, being a minor. She turns to prostitution to provide her baby with the food they both need to survive. Should she be punished? It is true that she has broken a law by selling her body, but has she done wrong? If she has truly exhausted every legitimate option that she can think of, then she has not done wrong by taking the only option she can find to provide for her child. Instead, she has done right, by obeying her maternal mandate to care for her baby. Society has failed her, causing her to fall into circumstances that are beyond her ability to overcome by accepted means. She is a child in need of help, not a criminal in need of punishment. She deserves to be rewarded for caring for her child by being given a fresh start in society, so that she and her baby can have a chance to succeed in life and to be better than her childhood.

‘Just desert’ is a philosophy of justice whereby a criminal offence is viewed as lowering the victim or community’s status or power relative to the offender, which requires a degradation of the offender to redress the moral balance. However, ‘just desert’ means to ensure that a punishment is both appropriate to a crime and that it is consistent. Someone who steals a loaf certainly does not deserve life imprisonment. Neither does one convicted of wilful homicide necessarily deserve such sentence. Given the confusion surrounding the topic, it seems that the argument is over what the term means. If one considers ‘just desert’ to mean a redress of grievances by mutual degradation, it should be a matter of little difficulty to discredit and banish such a theory from the field of justice. However, if one considers the term to mean that criminals should get exactly what they deserve, no more, no less, then one would be hard-pressed to find a convincing argument to stand in opposition.

The concept of distributive justice has long been menaced by varying interpretations of the word ‘fairness’ and it seems that this word, which refuses to conform to a universalised definition, seems to be another issue. How can one strike a balance when deciding what is just for an offender based solely on the nature of a specific offence while maintaining the act of fairness toward that offender as an individual and he’s or her situation?

Furthermore, how can any single deed merit a single sentence, the essence of judicial consistency, without taking into account other actions and circumstances that apply to the participants in a specific case? There are lot to take into consideration when deciding an offenders punishment, which even the scholars in this field have been able to specifically identify. We all are aware morally that we should not cause suffering, and punishment causes suffering. It can be argued whether there should be an objective purview of justice, where the punishment of offences can be seen as a cause-effect relationship or whether justice should deal with each case as an individual occurrence, taking into account all individual traits of all players, and the circumstances of the case, while keeping a superiority of morality always foremost in mind. Thus, it is my opinion that ‘just desert’ is a necessary component of justice, if and when it is considered to be representative of the concept of punishment being a resultant effect of an offence having been committed. Of course, care should be taken that the punishment does not exceed the guilt, nor that it falls conspicuously short of reflecting the guilt, and also that some men do not suffer for offences for which others are not even indicted. Experience has shown that punishment is the last and the least effective instrument in the hands of the legislator for the prevention of crime.

(Peter vallentyne 2003) defines moral desert, or moral effort, as “a matter of how deserving one is from the perspective of morality”. So, relative deserts refers to the efforts put forth by individuals from a moral perspective and relative to the individual’s circumstances and to the efforts of others. Everything in justice, then, is relative and conditional. There is no absolute good that should always be rewarded, and there is no absolute wrong that should always be punished. Instead, each individual’s effort should be considered relative to the individual’s circumstances.

 It is also important to remember that the merit of one’s efforts “is not directly changed by things that happen to one when one had no ability to deliberately influence them” (Vallentyne, 2003). According to this, a person may be a victim of circumstance, and is not responsible through his or her actions for the good or the bad that may result from such circumstances. Through this lens we see that a person deserves the opportunity to rise above his or her fullest potential. If that potential turns out to be for good, then the individual deserves to be rewarded for the good that he or she does. If that potential turns out to be for wrong-doing, despite overcoming circumstances that were beyond his or her control, then the individual deserves to be punished for the wrong that he or she does.

Each person should be rewarded or punished according to the rightness or wrongness of his or her actions, but only relative to the individual’s circumstances. Right and wrong are relative, conditional issues, and what is right or wrong in one situation may be just the opposite in a different situation. Each person deserves the opportunity and the means to overcome circumstances that are beyond his or her control, and each person deserves the rewards or punishments that he or she earns for those deliberate actions that the individual does control.

2. as a criminology student the best way for punishing and treating capital offenders would be life imprisonment alongside psychological treatment like rehabilitation programs.

Life imprisonment unlike the initial death penalty is cost effective, taking into consideration that it is tax payers money they are using to punish the offender, why let him or her take more from society more than he already has. Life imprisonment is cheaper. You need media analysis and moot court cases, a bifurcated trial, a death qualified jury, and far more witnesses and experts—and that is all spent well before any conviction and the appeals process. It is also more just to compensate the innocently convicted if they are still alive—and these cases keep getting recognized due to Innocence Project groups. So when Justice Blackmun said that he was no longer willing “to tinker with the machinery of death”, this convoluted and expensive process is what he referred to. In terms of deterrence, you get specific deterrence (preventing that person from killing again after he is dead). But general deterrence (a drop in the murder rate) is more complicated. John Donahue—a lawyer, economist, and very serious number cruncher—has examined a number of studies proclaiming a deterrent effect, and found that they actually found little or found a “brutalization effect”, when murders rise following an execution. **For the convict?** Rand did a study years ago and found that many prisoners preferred the death penalty to growing old in a prison like Pelican Bay. Thus, if you really wanted to punish someone, life in prison is more punishing than a quick death. **For victim families?** I worked in prisons, and taught crime and punishment courses in college. I worked with victim groups. Some wanted to spare the convicted felon’s life. Some wanted (usually a him) him to die right away, seeking “closure”. The more I worked with groups, the more skeptical they were about this “closure”. When I suggested cases in class (Ted Bundy, Blankenship (the coal mine owner whose actions lead to many deaths, Cheney, etc.) students became more ambivilent the more time had elapsed.

In summary, if we have a policy that is extremely expensive, that doesn’t work (general deterrence), where we make many mistakes in the process, maybe we need a new policy. If a person commits a mistake which has a deep impact on the victim or victim’s family then life imprisonment is an appropriate punishment. Capital punishment takes the life of a person which is not a real justice to any crime. Life imprisonment gives a chance to the criminals to realize their mistakes.

2b. No, my answer will not be the same if it was directed to a person who committed a simple offence. Just like the ‘just desert’ principle state the punishment should be proportionate to the crime taking into consideration the circumstances surrounding the offence and the offender. In simple terms, you can’t give the same punishment given to a wilful homicide to a petty bread loaf theft. For instance giving the petty loaf thief life imprisonment or giving the wilful homicide a five thousand naira fine/ 30days imprisonment (hypertetically speaking), it would be both constitutionally and morally absurd to do so and it would also lead to an unfair and unjust decision.

REFERENCE

Timesofmalta.com

 http://www.helium.com/items/930352-let-the-punishment-fit-the-crime-the-law-of-just-desserts