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Matric no: 17/law01/095

1)

Just deserts, as a philosophy of punishment, argues that criminal sanctions should be commensurate with the seriousness of the offense, we are going to study the intent of this philosophy or principle. To achieve this we must study the severity of punishment meted out to felony offenders in a large urban jurisdiction and be able to propose a that two dimensions of criminal sanction need to be examined to understand punishment severity: the type of sanction received and the length of sentence. We also argue that the frequency and visibility of crime are linked to punishment severity. Analyses indicate that crime visibility is a good predictor both of judicial decisions to incarcerate and of the length of term of probation. Crime frequency, on the other hand, has little predictive power. We conclude that judges in the jurisdiction are guided by a modified just deserts philosophy in their sentencing decisions. In other words it's just saying let the punishment fit the crime. The phrase represents the idea of a fair and appropriate punishment related to the severity of the crime that was committed.

Just deserts is sometimes referred to as the 'retribution' type of sentencing. In other words, one should be punished simply because one committed a crime. Throughout history, the idea of retribution for the commission of a crime can best be explained in the Old Testament quote 'an eye for an eye, a tooth for a tooth.'

So, what exactly is the just deserts philosophy? Under just deserts, those who commit crimes deserve to be punished. Moreover, the severity of the punishment should be commensurate with the severity of the crime. In other words, as stated at the outset, the punishment should fit the crime

Andrew von Hirsch has had a major role in making the part retribution plays in doing justice respectable once more,¹ after it had been relegated to near oblivion in favor of rehabilitation.² He has helped matters along by rechristening retribution "just deserts." And why not? It is a catchy name (although pleonastic: "unjust deserts" would be oxymoronic). The reacceptance of retribution was helped when it was revealed, at long last, that rehabilitation by means other than age was far too rare to warrant sentences tailored to so unlikely a prospect. ³

In Past or Future Crimes Professor von Hirsch discusses rehabilitation briefly and deterrence occasionally to focus on the most recent sentencing theory: "selective incapacitation."

Rehabilitation, deterrence, and selective incapacitation propose sentences primarily meant to control crime through sanctions based on the predicted future behavior of convicts (or, in the case of deterrence, of prospective offenders). Wherefore Professor von Hirsch rejects them. He wants sentences to be determined by past behavior - by what is deserved for the crime already committed. Sentences must be morally just, regardless of future effects on convicts or others. In the Kantian tradition, punishment is not treated as a means of crime control, but primarily as a deontological moral act, an end (if not a good) in itself.⁴ Laws must

prescribe and courts must impose the sentences crimes deserve. Having established this we can come to the conclusion that the just desert principle is with the aim of giving retribution to a crime committed it can be said that what motivates the whole principle is to give a punishment that matches or is equivalent to the crime committed

2)

A capital offense is "any criminal charge which is punishable by the death penalty, called "capital" since the defendant could lose his/her head (Latin for caput). Crimes punishable by death vary from state to state and country to country. As a criminologist in training I do not believe that a death penalty is advisable for a capital offense Everyone thinks human life is valuable. Some of those against capital punishment believe that human life is so valuable that even the worst murderers should not be deprived of the value of their lives.

They believe that the value of the offender's life cannot be destroyed by the offender's bad conduct - even if they have killed someone.

Some abolitionists don't go that far. They say that life should be preserved unless there is a very good reason not to, and that those who are in favour of capital punishment are the ones who have to justify their position. Everyone has an inalienable human right to life, even those who commit murder; sentencing a person to death and executing them violates that right.

This is very similar to the 'value of life' argument, but approached from the perspective of human rights.

The counter-argument is that a person can, by their actions, forfeit human rights, and that murderers forfeit their right to life.

Another example will make this clear - a person forfeits their right to life if they start a murderous attack and the only way the victim can save their own life is by killing the attacker.

The medieval philosopher and theologian Thomas Aquinas made this point very clearly death penalty remains fraught with arbitrariness, discrimination, caprice, and mistake ... Experience has taught us that the constitutional goal of eliminating arbitrariness and discrimination from the administration of death ... can never be achieved without compromising an equally essential component of fundamental fairness - individualized sentencing.

Jurors in many US death penalty cases must be 'death eligible'. This means the prospective juror must be willing to convict the accused knowing that a sentence of death is a possibility.

The medieval philosopher and theologian Thomas Aquinas made this point very clearly

This results in a jury biased in favour of the death penalty, since no one who opposes the death penalty is likely to be accepted as a juror. There's much concern in the country that the legal system doesn't always provide poor accused people with good lawyers.

Out of all offenders who are sentenced to death, three quarters of those who are allocated a legal aid lawyer can expect execution, a figure that drops to a quarter if the defendant could afford to pay for a lawyer.

Regardless of the moral status of capital punishment, some argue that all ways of executing people cause so much suffering to the condemned person that they amount to torture and are wrong.

Many methods of execution are quite obviously likely to cause enormous suffering, such as execution by lethal gas, electrocution or strangulation.

Other methods have been abandoned because they were thought to be barbaric, or because they forced the executioner to be too 'hands-on'. These include firing squads and beheading.

This is really more of a political argument than an ethical one. It's based on the political principle that a state should fulfil its obligations in the least invasive, harmful and restrictive way possible.

The state does have an obligation to punish crime, as a means to preserve an orderly and contented society, but it should do so in the least harmful way possible

Capital punishment is the most harmful punishment available, so the state should only use it if no less harmful punishment is suitable

Other punishments will always enable the state to fulfil its objective of punishing crime appropriately

Therefore the state should not use capital punishment

Most people will not want to argue with clauses 1 and 2, so this structure does have the benefit of focussing attention on the real point of contention - the usefulness of non-capital punishments in the case of murder.

One way of settling the issue is to see whether states that don't use capital punishment have been able to find other punishments that enable the state to punish murderers in such a way as to preserve an orderly and contented society. If such states exist then capital punishment is unnecessary and should be abolished as overly harmful.

The idea that we must be punished for any act of wrongdoing, whatever its nature, relies upon a belief in human free will and a person's ability to be responsible for their own actions.

If one does not believe in free will, the question of whether it is moral to carry out any kind of punishment (and conversely reward) arises.

Arthur Koestler and Clarence Darrow argued that human beings never act freely and thus should not be punished for even the most horrific crimes.

The latter went on to argue for the abolition of punishment altogether, an idea which most people would find problematic.