

Death Penalty

Name

Institution

Retribution theory is based on the notion of vindictive justice. The idea behind this theory is that one should suffer the same pain he or she caused the other person to suffer. In case the offender killed the offended, he should also be killed. Similarly, if he removed the victim's eye, his eye should also be removed. Theorists of retribution theory argue that a person should be made to go through the same suffering the offended went through even if there will be no gain of the suffering. Incapacitation is the unique form of specific dissuasion, although intended at a different period. The sole aim of incapacitation is to maintain the wrongdoers from committing other crime while still in prison cells. It is not meant at limiting future behaviors.

Historically, retribution theory applied in most societies. The relatives of the offended were responsible of making the offender pay for wronging their kinsmen. In case the offended is dead, the relatives were supposed to kill the offender on behalf of the deceased. The government later took retaliation right from people. The state also believed that the person who has caused another person to suffer should also suffer. Theorists of retribution theory argued that the family and friends of the offended might not cooperate if the offender is not unpunished. Therefore, it was important to initialize criminal law to institute justice (Feeley & Simon, 1992).

On the other hand, supporters of the punishment incapacitation theory advocate that wrongdoers should be limited from committing more misconducts either by their permanent or temporary removal from community or by other means that limit their physical capability to reoffend in other means. Incarceration makes the most mutual methods of incapacitating lawbreakers. However, more severe forms like capital punishment are used. The overall objective of incapacitation is preventing the most prolific or dangerous criminals from recidivism in the society.

Incapacitation is the reductivist or the forward looking of justification for the punishment. Reductivism is reinforced by the moral reasoning theory known as utilitarianism. It maintains that an action is reasonable and defensible if its global consequences are useful to the highest number of individuals. Therefore, the suffering or pain imposed on offenders through sentence is acceptable if it prevents or reduces the further injuries that could have been instigated to the respite of the society by the imminent crimes of that wrongdoer. The apprehension here is with the prey, or the potential object. The right of the wrongdoer merit slight considerations (Feeley & Simon, 1992).

Most of the ancient spiritual books and societies such as the Greeks supported retribution theory. They claim that the fairest means of justice is to make the offender go through what he caused another individual to go through. It was allowed for people to kill their kinsman if he has killed another person. Traditionally, a gentleman has to begrudge an insult when seeking to remove the blood of the offender. In the modern society, retribution theory is still evident. In case a person's wife is violated or offender, one does not have to wait for policemen. He should knock the offender down for interfering with his property. Incapacitation has elongated been an important plan of punishment. For instance, in Britain at the 18th and 19th centuries, condemned offenders that were often carried to the Americas and Australia. In the 21st century, the somatic removal of wrongdoers from community remains the basic methods of incapacitation in major current penal systems. This takes the form of imprisonment, though other means of exhaustion are in action (Zimring & Hawkins, 1995).

However, retribution theory does not provide an acceptable criteria of distinguishing between unjust and just punishment. Additionally, it is hard to determine the punishment for all crimes. For instance, it is hard to determine the punishment for dishonesty, forgery, kidnapping

and rape. In case an offender has committed any of these crimes, he or she is likely to go unpunished because he cannot be raped or kidnaped. It would be demoralizing to rape a person who has raped another victim. In fact, there might not be any person ready to rape the offender. The most permanent and severe form of incapacitations are capital punishments. Capital punishments are often justified over the concept of preemption. However, if the death punishment deters probable offenders is exceedingly contested. What is unquestionable is that after put to death individuals are incapable of obligating further crimes. Therefore, capital punishments are undeniably effective in terms of its incapacitated function (Feeley & Simon, 1992).

Retribution theory was rejected with the idea of humanization and refinement society. Current theorists claim that vengeance cannot be accepted in the society as increase hatred and crime. Retribution theory arrays man against man. It increase criminals in the society as people try to make punishment of crimes as severe as possible. Currently, neither the public opinion nor the victims of crime are comfortable with brutal methods of punishment. Other types of permanent or severe incapacitated punishments comprise dismemberment that is practiced in numerous forms. For instance, the chemical or physical castration of sex criminals has been utilized in numerous Western countries, remarkably North America. Fewer severe types of incapacitation are often anxious with limiting rather than completely incapacitating offenders from recidivism. These comprise sentences like disqualification from curfews or driving. In the UK, attendance center commands are used for personal under the oldness of twenty one years. Their objective is to limit the leisure period of offenders by necessitating them to appear a center in direction to involve in some kind of activity for a quantified amount of hours (Zimring & Hawkins, 1995).

In both the incapacitation theory and retributive theory, the criminal has to be punished or else the society will be frustrated. The two theories support the idea of punishment of criminals to help unify the society. They also agree that punishment is the only way maintaining respect in the society. Therefore, law-conformists and law-violators should not receive the same treatment for everybody to abide by the law (Feeley & Simon, 1992).

Retribution Theorists are the backward looking as different to the forward looking for the utilitarian theorists. Their views would be summed up as an eye for an eye. Retribution theorists aims at the grief of the offender to examine the extent of the punishment. The criminal offender's punishment should be relative to the anguish of a victim. This theory might also consider the social standards when deciding punishment. For instance, a society might view the damage caused by the cannabis as less than the injury caused by the cocaine. Therefore, the punishment for individuals convicted of ownership of marijuana might be less than the sentence for a person convicted of ownership of cocaine.

In conclusion, as indicated above, the primary means of incapacitation is incarceration. As with the capital sentence, incapacitation in the kind of imprisonment is contemplated to be a plan that functions since, for the time of their prison judgment, offenders are constrained from committing delinquencies within the society. So, with respect to this theory, castigation is not fretful with the landscape of offenders, as is the situation with convalescence, or with the environment of the fault, as is the situation with revenge. Rather, punishment is vindicated by the hazard individuals are thought to pose to community in the imminent. As an outcome, individuals may be castigated for proposed crimes. In other terms, they may be confined, not for misconducts they have essentially committed, but for misconducts it is assumed or anticipated they will earmark.

References

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