

## What's the Goal of Criminal Punishment?

Sara, Alexander, and Kimmy

**Goal:** Discuss the desired outcomes of criminal punishment and whether a punishment-centric criminal justice system is adequate to attaining such outcomes. If time permits we will conclude with comparing punishment-centric models of criminal justice versus restorative punishment.

**Note:** Kimmy and Alexander, please make sure to read through all the sections. We may skip the last in the interest of time. The only way to have a productive conversation with them on this topic is to make sure we all have a grasp on the different frameworks for thinking about criminal punishment. PLEASE make sure you both feel confident you can speak to the material on this lesson plan. If not, talk to me before we get to MHS

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Initial activity: What's the goal of criminal punishment?

*What are the desired outcomes of criminal punishment?*

- Ask them to journal for 5 minutes
- Have them read out their answers one by one
  - as they read them out we will be listening for the different desired outcomes of punishment listed below. The students may raise more than I have listed, that's okay.

Talk about the desired outcomes of criminal punishment

*Talk through the different categories in light of the students answers*

1. Deterrence
  - a. Definition: To punish individuals to discourage them from committing crimes in the future and to discourage other people who might have considered committing the same crime by making an example out of them.
  - b. Example: If someone receives a big fine or a long prison sentence for a minor misdemeanor, this will ideally discourage others from doing the same to avoid the same penalty.
  - c. Related questions
  
2. Rehabilitation (for the criminal)
  - a. the idea that the purpose of punishment is to apply treatment and training to the offender so that he is made capable of returning to society and functioning as a law-abiding member of the community.

- b. Example: an offender is released on probation under some condition or they serve a relatively longer period in custody to undergo treatment or training.
3. Justice
- a. There's something wrong about breaking the law. You should be punished for breaking the law.
    - i. Justice for the victim

### 3) Is criminal punishment a good means to achieving the goals we've discussed?

1. Does criminal punishment actually deter future crimes/offenses?
  - What about repeat offenders?
  - Some say it actually makes the problem worse
    - Ex-cons are excluded from the job market, lose skills/don't have the opportunity to build skills, which leads offenders back to crime
  - How much does deterrence matter? Is there something about breaking a criminal law (or otherwise committing a crime) that makes it deserving of punishment in itself? Should all crimes be punished?
2. The US Prison system is deeply flawed. Should mass incarceration make us skeptical about whether justice can be achieved through criminal punishment?
  - What's mass incarceration? (I'll print this out for them, they liked having a fact sheet during our lesson on the death penalty)
    - i. Current estimates indicate that there are approximately 2.3 million people incarcerated in the United States, with an additional 4.5 million people on probation or parole. The US has the world's highest incarceration rate and, despite representing under 5% of the global population, the US holds almost 20% of the global prison population (Prison Policy Initiative). The staggering incarceration rates in the US can be traced back to a variety of factors and forces throughout the course of recent US history. In *The New Jim Crow*, Michelle Alexander argues that "convictions for drug offenses are the single most important cause of the explosion in incarceration rates in the United States...more than 31 million people have been arrested for drug offenses since the drug war began. Nothing has contributed more to the systemic mass incarceration of people of color in the United States than the War on Drugs"
3. Is rehabilitation possible through criminal punishment?
  - We think of rehab as a healing process. Can punishment lead to healing? Can the court order you to rehabilitate yourself?

4. How should we factor in collateral damages of criminal punishment? Should we consider them as part of the criminal punishment?
  - In addition to the formal consequences of a criminal punishment, people with criminal records face a range of informal collateral consequences:
    - Social stigma, family tensions, discrimination by employers and housing authorities, and financial challenges. These consequences are not imposed by the law, but they are associated with being criminally convicted.
    - Incarcerated parents are denied visitation from their children if the court decides it is not in the child's best interest.
    - "Imprisonment hinders the possibility of people making *reparation*, paying off debt, and increases the likelihood of homelessness, and in some cases can break up contact with families."
  
- Does punishing criminal behavior make us safe? (by keeping the criminal away from us)
  - At least sometimes it does, right? – Case of serial killers, mass-murders...
  - But what about victimless crimes like possession of marijuana. Does it make us safer to punish non-violent crimes?

#### 4) Restorative Justice

*Are there other ways to respond to wrongdoing?*

#### **So far we have been talking about punishment-centric approaches to criminal justice**

- A punishment-centered criminal justice system asks three central questions: What rules were broken? Who did it? What do they deserve?
- Is there something wrong with this approach?

#### **Restorative justice**

An alternative system used in different states in the US and different countries

- The "three questions" of restorative justice: "Who has been hurt? What are their needs? Who is responsible for righting the harm?"
- *How do we feel about restorative justice?* Ask them to put their thumbs up, down, or sideways on whether they think restorative justice is a better approach than punishment-centric ones.
- Should all criminal punishment involve restorative justice or is punishment sometimes called for?
  - Some crimes are heinous... are their cases where restorative justice should be off the table?

- How should we distinguish between cases?