

PUNISHMENT REVISITED

The concept of punishment historically has been based on the notion of negative reinforcement; that certain behaviors, and even thoughts, can be successfully averted by inflicting pain and/or separation. In the case of a child, pain can take the form of physically striking as a slap or spanking, and for an adult, a beating or even torture, are common. Isolation or separation for a child is common as a “time out” or grounding, for an adult, jail or prison.

In the field of criminal justice, the social community acts through police, the courts, jails, prisons, and parole systems at all levels of government to provide law enforcement. The extremely high rate of recidivism, typically between 60 and 80% of all offenders, urges us to re-examine the efficacy at all levels of the criminal justice system in light of an enlightened philosophy of justice.

Historically, at least four separate theories of crime and punishment compete for preeminence in guiding correctional policies to determine justice. First, is Retribution, an expression of society’s moral outrage to lessen the impulse of victims and their families to seek revenge. Retribution is also the imposition by a social or religious delegation to enforce what is interpreted as the will of God. Deterrence argues that punishment of an offender should be severe, even death, and sufficiently conspicuous to deter others from committing a particular crime. Incarceration is responsibility of a criminal justice agency to protect the public from lawbreakers or habitual criminals by segregating them behind prison walls. Rehabilitation: Finally, there is the theory that criminals are partly or entirely victims of social circumstances beyond their control and that society owes them comprehensive treatment in the form of rehabilitation.

We fully embrace the idea of free and mandatory public education, that every child should have the opportunity to learn not just basic language and math skills, but also history, geography, health, science, art and music. Public education is the belief that for someone to be fully participatory in a democratic society they need to be informed or capable of informing themselves and making a reasonable and rational decision about the priorities and responsibilities of government.

The vast majority of incarcerated individuals are either mentally ill or under educated or both, yet society still expects them to be capable of making decisions that are rational, reasonable and informed, and when they don’t, holds them fully responsible for their actions. The ruling mentality for criminal justice to this day is that these individuals need to be punished for what they have done.

Punishment is an inappropriate response primarily because it is an ineffective solution to causing any significant degree of reform or rehabilitation. The threat of isolation or confinement, and violence or death has not proven to be an effective deterrent to crime. We have more prisons and more inmates incarcerated than any other time in the collective and cumulative history of the world.

The punishment mentality is a residual immaturity of the majority of society that is coming from the desire to control what others do or say. Society is no more effective in controlling what an individual will do or say than we, as individuals, are able to control each other. Family values, peer pressure, social norms and laws, and personal needs all compete for what we feel we must do to survive in whatever way we imagine that to be. The influential power of family bonds, education, and spiritual practice are considered to be the greatest deterrent to deviant or criminal behavior, but no amount of influence can account for the effect of mental instability.

The disutility and hypocrisy of punishment was clearly demonstrated by Jesus in his admonition for those without sin to cast the first stone. The social acceptance of punishment reinforces and reconditions the social community itself in its' confusion about the nature of control. Does a parent punish the child because the child is "bad," or is the child unaware of the full implication of his or her actions? Does punishment educate or enlighten the child as to why their actions are inappropriate or possibly hurtful, or merely induce a fear based cause and effect response that loses influence as soon as the parent is absent?

Once the punishment is imposed, is that the end of the conversation? This is likened to the couple that punish each other by not talking, becoming moody and distant, withhold affection or leaving. One's efforts to control the other partner by these means only aggravates an already hostile situation rather than seeing the issue as an opportunity to be more open and understanding of each other sensibilities, needs and feelings.

Our attachment to being "right" and making the other person "wrong" are a further expression of confusion about the nature of control. By labeling the other person "wrong" we assume license to blame, make accusations and spread stories that will damage the reputation or credibility of the person that is "wrong."

The simple fact is that punishment, in all its forms, is not only inappropriate and ineffective, it's itself the cause of greater criminality, greater recidivism, and greater injustice. In the name of punishment, men and women "offenders" are placed in crowded and violent conditions without adequate oversight or proper care and with little or no opportunity to grow emotionally or improve themselves either intellectually or vocationally. The same mentality continues to punish after release through state laws that justify the discrimination of ex-offenders by denying jobs, housing or further education.

What's the alternative? Does this mean that law-breakers should not be locked up? Society has an obligation to protect itself from those that do harm. There are many sociopaths and psychopaths that need to be segregated from the social community, but does this mean that they are simply warehoused without the benefit of rehabilitation? The current volume of people incarcerated makes it almost impossible, or at least very challenging to offer programs of rehabilitation that will meet the needs of most inmates such as education, vocational and jobs training, and personal growth programs in spiritual practice.

Is it practical to think that we can restructure the prison culture from punishment to rehabilitation? We've made some steps down this path, the current trend to evidence based sentencing is certainly a large stride, but the group think mentality of the prison system has a long way to go. Less crowding, more programs, a better class of security and administrative personal that understand the vital role they play in creating an environment that encourages a greater assimilation and identification with the norms of the social community rather than perpetuating the criminal shame/blame/guilt mentality that breeds deeper dysfunction. The restorative justice movement, community based committees of concern that focus on the actual dynamic of reentry is another important step in moving the ex-inmate from reoffending for a lack of any other options.

Rethinking and reorganizing the role of parole from meddling to monitoring and eliminating the policy of restitution will take the profit out of reentry and allow the ex-inmate to take more responsibility for themselves whether or not they are under the overview parole.

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that punishment is to be inflicted on an offender so as to reform him, or rehabilitate him so as to make his re-integration into society easier. Punishments that are in accordance with this theory are community service, probation orders, and any form of punishment, which entails any form of guidance and aftercare towards the offender.

This theory is founded on the belief that one cannot inflict a severe punishment of imprisonment and expect the offender to be reformed and to be able to re-integrate into society upon his release. Although the importance of inflicting punishment on those persons who breach the law, so as to maintain social order, is retained, the importance of rehabilitation is also given priority.