

Moral Accountability and the Need for Rehabilitation

Anupam Panthi
St. Xavier's College, Nepal

Abstract

This paper outlines the interplay between rehabilitative and retributive justice, advocating for a balanced approach that acknowledges both as essential components of justice. First, the paper outlines the philosophical foundation for punishment based on moral wrongdoing, focusing on Kantian ethics. However, it argues that punishment alone is insufficient considering the moral obligation of the state for the rehabilitation of offenders. The paper highlights the importance of considering individual circumstances that impact moral responsibility. The argument is made that rehabilitation is not merely a utilitarian tool, but a necessary measure to respect the inherent dignity of all individuals. The conclusion calls for a justice system that integrates both retribution and rehabilitation to foster personal responsibility without compromising social equity.

1. Introduction

The concept of imprisonment is almost as old as human civilization itself. Even three thousand years ago, the ancient Mesopotamians had prisons of their own.¹ Despite mankind's long history with penal institutions, our opinions about punishment and justice are still deeply divided. Some philosophers justify punishment as a moral imperative in itself, whereas others deem it necessary *only insofar* as it produces positive consequences such as deterrence. It is my argument that regardless of how one justifies punishment, rehabilitation is just as important as retribution and a moral obligation of the state.

2. The Justification for Punishment

A wide array of different perspectives can be broadly categorized as a retributivist perspective of punishment, but they all differ drastically in their nuance. Still, they have in common that they maintain an inherent link between punishment, responsibility and moral wrongdoing. The general consensus among legal theorists today is that as a society, we are steadily committed to both rights and utility. But most would certainly agree that its legitimacy is the ultimate determining factor on the infliction of a punishment. Even the most brutally consequentialist thinkers, like Jeremy Bentham, who advocate for punishment primarily as a means of deterrence, still require the legitimacy of punishment.² However, in this section, I will mainly analyze the Kantian and social contract perspectives.

When an individual commits a crime, causing harm to another person, they are deserving of punishment because they have committed a moral transgression. According to Kant, we ought to "act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end".³ When a robber steals from an innocent civilian, he is using civilians as a mere means to accomplish his monetary needs. By doing so, he has rendered himself deserving of punishment. To justify this punishment, Kant invokes the "lex talionis": the principle of retaliation. In order to *restore* justice after the occurrence of a crime, the perpetrator should be given a punishment similar to that of his crime. Kant's argument can thus be summarized with two premises:

1. If one is morally responsible for a moral transgression, this entails that they deserve punishment. (Lex talionis)

¹ J. N. Reid, *Prisons in Ancient Mesopotamia: Confinement and Control until the First Fall of Babylon* (Oxford University Press, 2022).

² Jeremy Bentham, *The Limits of Jurisprudence Defined: Being Part Two of an Introduction to the Principles of Morals and Legislation*, new edition, ed. Charles W. Everett (Greenwood Press, 1970).

³ Immanuel Kant and Christine M. Korsgaard, *Kant: Groundwork of the Metaphysics of Morals*, ed. Mary Gregor (Cambridge University Press, 1998).

2. Humans, being rational agents, are morally *responsible* for their actions, including moral transgressions. (Rationality principle)
3. Thus, human beings deserve punishment. (Modus ponens)

While much can be argued about premise (1), as shown, Kant's argument is also crucially based on premise (2) that humans have rationality and consciousness. The intrinsic value of human life is unwavering and inconsequential. It is for this reason that we punish criminals; because this is what they deserve as logical and morally liable creatures. If they are not given the punishment that they rightfully deserve, then it is tantamount to treating them as animals (or other inanimate objects), incapable of the faculties of reason. As he writes, "If justice and righteousness perish, human life would no longer have any value in the world."⁴ Hence, Kantian ethics necessitates punishment on the grounds that accountability for their crimes affirms their dignity as moral agents responsible for their actions.

While Kant views punishment as a recognition of human dignity and moral agency, other thinkers take a more severe stance. Locke believed in the "forfeiture" of rights.⁵ As per his theory of natural rights and government, rights like liberty, life and property are inviolable and granted by nature itself. They form the basis for his social contract theory. When an individual commits a criminal act, infringing on the rights of others, they violate the social contract. According to Locke, such actions can be interpreted as a forfeiture of the criminal's own rights. Thomas Hobbes presents a similar approach for the justification of punishment. Hobbes describes the societal conditions prior to the social contract as 'the state of nature'.⁶ He argues that individuals who violate the laws of the social contract have reverted to the state of nature, whereby they may be subjected to punishment. To summarize roughly the argument of a social contract theorist for punishment:

1. We gain our rights (i.e. to life or property) through engaging in a social contract with others
2. When we commit crimes or other moral transgressions, we violate and negate that social contract.
3. But since it was only from the social contract that we got our rights (1) we lose the source of our rights when we commit crimes and negate the source of our rights. In other words, we open ourselves up for punishment.

⁴ Immanuel Kant and Roger J. Sullivan. *Kant: The Metaphysics of Morals*, ed Mary J. Gregor (Cambridge University Press, 1996).

⁵ John Locke, *Second Treatise of Government* (Hackett Publishing, 1980).

⁶ Thomas Hobbes, *Leviathan* (Penguin Random House, 1982).

3. Rehabilitation as a Moral Necessity

In the same light as punishment, I find it necessary for rehabilitation to be viewed through the lens of legitimacy. Rehabilitation, while undoubtedly producing positive consequences, should not be seen merely as a consequentialist choice. Instead, putting aside the utilitarian perspective, I argue that rehabilitation must be regarded as a moral necessity for its own sake, grounded in human dignity and rationality. In this section, I will argue that rehabilitation is a moral necessity based on two arguments (respective to the aforementioned Kantian and social contract theories): first, the dignity and rationality asserted by Kantianism requires rehabilitation; and second, that crime results from the failure of the state to meet its obligations.

Beginning with the Kantian defense of punishment, recall that it is maintained by the premise that humans act with rationality. Under this view, the reason we punish criminals is because we believe that they have reason and the capacity to act otherwise. But the capacity for rational decision-making exists in a wide spectrum. To illustrate, let's consider a corrupt statesman who greedily steals public property and a beggar who steals out of necessity. It is ridiculous to argue that both of the two individuals have the same capacity to act morally. The statesman chooses corruption out of greed, while the beggar, driven by desperation, resorts to theft as a means of survival. Their circumstances and motivations are vastly different, which means that their capacities for moral action are also different. Hence, it is unreasonable to assume that all individuals have equal capacities for moral action, and thus for punishment.

One might argue here that since not all needful men resort to theft, it is inexcusable for those who do so. However, the crux of my argument is not to exonerate criminals from punishment, but merely to note the *necessary* role of contextualizing their crime. Disregarding their circumstances is a disregard for their justice and fairness. Therefore, under this Kantian view, punishments should not only be proportional to the crime but also to the criminal's capacity for reason. An uneducated, starving beggar is far less capable of Kant's cold 'reason' than a corrupt, wealthy politician. It is far harder for him to overlook his starvation and remain faithful to reason and morality.

Still, we must concede that there are plenty of cases where human beings commit abominable crimes even when they seem perfectly capable of reason. But even in these cases, it is important to inquire why a human, completely capable of rational action, might commit a crime. Again, turning to Kantian ethics, morality is intrinsically tied to rationality. However, if the Kantian concedes this, they must concede that in each instance of moral transgression, there is a driving force that strays an individual out of rationality – and thus seemingly out of the requirements for punishment.

The upshot of our analysis so far is that a Kantian justification of punishment necessarily binds one to basing their treatment of criminals based on not only their capacity for reason, but also the underlying *factors* that caused them to stray from reason. However, we of course cannot

excuse every criminal because of their inability to act rationally. Even if our circumstances and our impulses drive us to act unjustly, (most) human beings have the capacity to differentiate right from wrong.

Instead, if we accept the Kantian justification for punishment as valuing the inherent dignity of humans, then justice must not only respect the criminal's rationality by providing the punishment a rational agent deserves, but also *restore* the wounded rationality of the criminal by addressing the underlying factors that lead rational beings to commit irrational acts. In the case of the beggar whose capacities for reason may be diminished, if one is to deem respecting the beggar's limited rationality a justification for punishment, then one also must deem restoring their capacity for rationality a justification for rehabilitation. After all, the end goal remains the same: to respect the rational dignity of the criminal, else there cannot be punishment either.

To treat human beings in accordance with their human dignity means to be considerate and mindful of their unique circumstances. Given this, it becomes clear that rehabilitation is not merely a utilitarian measure to reduce crime but a moral necessity if we are to be consistent Kantians. Mere punishment cannot do justice to a criminal's life because it completely disregards their ability for change and rationality. When the state subjects criminals to harsh sentences without serious consideration for their circumstances, it gives up on the value that their lives hold — the potential for growth, reflection, and rehabilitation. It becomes akin to treating them as animals who cannot reason or grow, something the Kantian cannot accept.

4. Social Responsibility

Transitioning to the social contract justification of punishment, recall that any particular crime is viewed as an individuals' violation of a *social* contract, which justifies either their return to a state of nature or the forfeiture of *their* rights. However, if crime isn't merely a moral fault on the criminal, but a structural fault of society at large, then this logic of individual blame and consequence becomes tenuous.

Adding the state into the picture, this social contract does not merely involve other individuals but a state with its own responsibilities. Indeed, most modern democracies are built on a reciprocal social contract, where the state must uphold its own obligations in exchange for the power we vest upon the state (to enact justice). Rousseau argued that inequality and social injustices, often created and perpetuated by societal issues, corrupt human nature. This leads individuals to act in ways that may harm others. Hence, crime can be seen as a symptom of a societal failure to provide for its members. As such, the government can be seen as bearing responsibility for (numerous, but not all) crimes, especially the ones involving the marginalized and the poor. For example, recalling our example of the beggar, when the state fails to provide the poor with their right to food, it is entirely likely that they resort to stealing. When the state fails to look out for homeless children on the streets, it gives birth to violent gangsters and terrorists.

However, if we acknowledge the role of the state, then we must modify the original argument for punishment from the social contract. Here, if we concede that we *forfeit* (or otherwise) lose our rights by violating (negating) the social contract from whence we got our rights, so too does the state also lose its rights—in particular the right to power and to exact justice—if it violates its obligations. Not only does the state become implicated in the crimes caused by its neglect, but it forfeits its very power for punishment!

Of course, as with the Kantian, we do not wish to remove all punishment. Instead, part of the duties of the state must be to rehabilitate the criminals which it birthed. The state owes rehabilitation to criminals because its neglect of poverty, good education, mental illness, and social inequality led to said crime in the first place.

5. Conclusion

In conclusion, rehabilitation is not merely a utilitarian measure aimed at reducing recidivism or deterring would-be criminals; it is a moral obligation rooted in human worth and dignity, and the role of the state. Therefore, the justice system must strike a balance between retribution and rehabilitation. It is important to acknowledge and account for moral wrongdoing and instill responsibility in criminals through punishment. At the same time, it is also important for punishments to be proportional to the criminal's capacity to reason. Moreover, it must also be acknowledged that the capacity for moral reasoning is greatly influenced by factors outside of oneself. Hence, the state must bear accountability for the circumstances and reconcile punishment with an opportunity for growth.

References

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