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<div align="center">Kantian and Utilitarian Justification of Punishment</div>

The Stanford Encyclopedia of Philosophy asserts that legal punishment "involves the imposition of something that is intended to be both burdensome and reprobative, on a supposed offender for a supposed crime, by a person or body who claims the authority to do so." While both Utilitarianism and Kantianism acknowledge punishment as essential for social order, their justification is divergent. This essay will explore the differing rationale while addressing Kant's arguments on punishment.

Rachels note that per Utilitarianism, "our duty is to do whatever will increase the amount of happiness in the world" (Rachels, p. 140). However, Jeremy Bentham was of the view that "Punishment is, on its face, "an evil" because it makes the punished person unhappy" (Rachels, p. 140). Utilitarianism makes a key distinction, positing that punishment can be justified if the overall utility (positive utility) "outweighs" disutility (negative utility). Following this, Utilitarians contend that, "If someone breaks the law, then punishing that person can have several benefits" (Rachels, p. 140).

Rachels outline the benefits of punishment according to Utilitarianism:

1. **"Punishment provides comfort and gratification to victims and their families."** In other words, punishment offers victims and their families a chance at reprisal. Also, Rachels underscore that, in our legal system, victim's wishes have preeminence and determine the course of legal action.

2. **"By locking up criminals, or by executing them, we take them off the street."** Apprehending criminals increases utility since they can no longer subject society to their

criminality, thus making citizens happy. Also, prisons serve a purpose: "they protect society and thus reduce unhappiness" (Rachels, p. 140).

3. **"Punishment reduces crime by deterring would-be criminals."** Noting that exceptions exist, and tacit fear may not be sufficient to scare some lawbreakers, Rachels state that the fear of punishment results in lessened crime, "Someone who is tempted to commit a crime might not do so if he knows he might be punished" (Rachels, p. 140). Lack of criminal activity results in improved utility and thus Rachels submit "Deterring crime thus prevents unhappiness" (Rachels, p. 140).

4. **"Well-designed system of punishment might help to rehabilitate wrongdoers."** In other words, a "correctional" facility should remain true to its eponymous purpose, punishing criminals while concurrently offering them a second chance at life. Rehabilitation would increase utility as "One day he (a criminal) can return to society as a productive citizen, then both he and society will benefit" (Rachels, p. 141).

On the contrary, Immanuel Kant's approach to punishment is "retributive" in its truest sense. Rachels inform that Kant "despised the serpent-windings of Utilitarianism," since he believed "the theory is incompatible with human dignity" (Rachels, p. 142). Kant's rejection of the Utilitarian justification for punishment goes beyond his mere disdain of its purportedly convoluted reasoning. It is also antithetical to Kant's "belief" that "one man ought never to be dealt with merely as a means subservient to the purpose of another" (Rachels, p. 142). Kant suggests that by punishing/imprisoning a criminal solely for society's benefit/betterment, we are "using him." Similarly, Kant rejects rehabilitation, claiming that it infringes upon people's ability to choose -- "It violates their right to decide for themselves what sort of people they will

be" (Rachels, p. 142). Rehabilitation is an unsolicited burden for those who don't seek it, Kant states.

Kant's thesis for punishment is dictated by two principles:

1. **"People should be punished simply because they have committed crimes, and for no other reason" (Rachels, p. 142).**

   Consider moral agent Alex. According to Kant, Alex should be imprisoned wholly on the basis of his "choice" to commit a crime. Societal interests should be irrelevant while punishing him. If Alex is punished based on any other reason other than his crime, we are "merely using him," and robbing him of his free will.

2. **"Punishment should be proportionate to the seriousness of the crime. Small punishments may suffice for small crimes, but big punishments are necessary for big crimes. Kant's second principle leads him to endorse capital punishment; for in response to murder, only death is appropriate" (Rachels, p. 142).**

   Kant propounds that the quantum of punishment should correlate to the gravity of the crime. If Alex commits a "small" crime such as shoplifting (petty theft), he should be given a small punishment, other factors notwithstanding. However, if Alex commits a murder, he should likewise be killed/given the death penalty, other factors notwithstanding.

Rachels point out two arguments for Kant's retributivism:

1. **"Kant regards punishment as a matter of justice. He says that if the guilty are not punished, justice is not done" (Rachels, p. 143).** This is to say, if Alex is found guilty, he must be punished for the sake of justice if not for anything else.

2. **"Kant provides another argument, based on his idea of treating people as "ends-in-themselves." This additional argument is Kant's contribution to the theory of Retributivism" (Rachels, p. 143).** Rachels clarify this idea, "For Kant, treating someone "as an end" means treating him as a rational being, who is responsible for his behavior. A rational being can freely decide what to do, based on his own conception of what is best. Rational beings are responsible for their behavior, and so they are accountable for what they do" (Rachels, p. 143,144).

Alex must be treated as a rational being, capable of making choices. His neighbors Bob, Chet and Dave (all rational beings) should treat him the way he treats them. This ostensible reciprocation is not imposed on Bob, Chet and Dave, nor are they bound by rules of civility. It is to rather say (borrowing Kant's argument) that "When Alex decides to treat people in a certain way, he decrees that in his judgment this is the way people are to be treated. Thus, if Bob, Chet and Dave treat him the same way in return, they are doing nothing more than treating him as he has decided that people are to be treated" (Rachels, p. 144).

Kant's arguments for retributive justice are valid but not sound. His first argument that "Punishment should be regarded as a matter of justice" can be challenged. Consider Alex and his struggle with difficult circumstances. Kant argues that:

Alex is guilty.

All guilty people should be punished.

Therefore, Alex should be punished.

Despite shoplifting out of necessity and having no prior history of criminality; Kant's argument would dictate that not punishing Alex would mean outright and overall injustice. This can be disputed pointing to his current plight and his past as a law-abiding citizen. Imposing the minimum sentence possible would suffice and unless he turns into a recidivist, Alex would have learned his lesson.

Kant's second argument that people should be treated as "ends-in-themselves" is valid, but exceptions do exist. This argument similarly rejects Alex's status as a "victim of circumstance, who ultimately doesn't control his own actions" (Rachels, p.145). Kant's argument offers no scope for judicial empathy, it is unmalleable and puristic. Rachels suggest that "If we see criminals as rational agents who freely choose to do harm, then Kantian Retributivism will have great appeal for us" (Rachels, p. 145).

Widely accepting the death penalty for all cases of murder also seems extreme and irrational, Rachels allude to a stunning fact, "In the United States, around 130 death row inmates have been released from prison after being proved innocent" (Rachels, p. 143). This alone would preclude most from imprudently supporting Kant's dictum. Though Kant's rigid emphasis on universalization and absoluteness corrodes his argument on punishment, his ideas can form the basis for rational thought alongside Utilitarianism.

Works Cited

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