

## JUSTICE AS RETRIBUTION

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### ABSTRACT

*Every individual in the globe has a perception towards crime, justice, criminals, and many other aspects in relation to criminals. On hearing the term "criminal", every individual reacts differently. There are those who feel that a criminal deserves to die, others feel they should rot in prison and many other divergent views. In the criminal context, the term retribution suggests revenge. This revenge, which the court delivers, is unseen by the common people. However, a critical scrutiny suggests that the legal process is also a tool to deliver revenge, on behalf of the victim. This is because it involves punishing the offender, as a means to achieve justice for the victim. This is in no way different from the concept of "an eye for an eye." This paper tries to explore the idea of justice as retribution.*

**KEYWORD;** *Justice, Retribution, Punishment.*

### INTRODUCTION

Over the previous decade, there have been changes in the legal framework, as regards to correctional punishment all over the globe. The change as regards to "reformatory populism" has come about to the increase number of persons imprisoned. The jail populace in countries is alarming. In some few years time going by these patterns, it is likely that the amount of detainees will have multiplied. Such a circumstance will prompt adverse impacts, which is of concern on the grounds that there will be a weight of cost and upkeep, which will be a burden on taxpayers (Allen 41-42). It is difficult to decide why individuals call for brutal punishment for wrongdoers, yet a theory on this makes it clear that it is inspired by retribution. The meaning of retribution otherwise called inter alia is the backing of punishment to re-establish equity and balance in the society. Furthermore, it additionally qualifies as an inclination for striking back and a statement of

malevolent. Overall, there is an absence of sufficient research on the issue of retribution, which has come about to the inadequate and differing meanings of the term retribution. Remarkably, there are two ways to deal with retribution. On one hand, it has an association with restoring a sense of justice via obtaining or asking for compensation, which is proportional to the damages to the victim (retribution as just deserts). On the other hand, it is the less productive use of punishment to revenge the offender and also to get back to him (retribution as a form of revenge). The two dimensions do not show any empirical difference. Although some studies suggest that, there is a variation between the two dimensions, it is still hard to understand how justice can be in a form of punitive punishment (justice as retribution) (Barton 12-80).

On one hand, it has a relationship with re-establishing a feeling of equity through acquiring or requesting remuneration, which is corresponding to the harms, to the casualty (retribution as appropriate recompense). On another hand, it is less useful utilization of punishment to vindicate the guilty party and revenge (retribution as a type of requital). The two measurements don't demonstrate any observational distinction. Albeit a few investigations recommend that, there is a variety between the two measurements, it is still hard to see how justice can be achieved in this type of correctional punishment (equity as retribution) (Barton 12-80).

Then again, social justice, which best applies in a society is characterized as the endeavour to re-establish the community by giving a partnership between the local government, community, private sectors, on the whole, helping to prevent crime, yet also offers new approaches for thinking far from retribution. As a rule, community justice, draws or acquires extraordinarily from the ideas of restorative justice. Many investigations have given experimental evidence, which proposes that restorative justice is the point of convergence in community justice, which goes for building up the society safety and set up the coveted consequences of justice, far from retribution (Clear and John 3-4).

What's more, community justice additionally acquires enormously from an extensive variety of thoughts going from community policing, community crime prevention and restorative justice endorsing approaches and numerous others. With a specific end goal to elucidate the significance of retribution, and further give the premise of whether the approach is a type of justice, this article will assess the objectives of punishment, which start from the assignation of punishment. Retribution as revenge surface from ideological perspectives obvious as laid out by Social Dominance Orientation (SDO), and combined security as claimed by the Right Wing Authoritarian (RWA). Outstandingly, the harsh punishments given to guilty parties and offenders have a positive connection and bolster the idea of retribution as vengeance (Pratto et al. 741-763).

## **RETRIBUTION PUNISHMENT**

Retribution is central to the desire that criminal offenders undergo the same, or experience their “just deserts” as a form of getting what is rightfully theirs. This desire for “just deserts” is

apparent in the concept of “eye for an eye”, which is core in the *lex talionis* from which a deduction of “retaliation” derives. In the context of biblical view, the texts from the law books provide a series of rules consisting of punishment for different offences. Therefore, the law of retaliation outlines the principle that a criminal offender should suffer the same injury, which one inflicted to the victim. Additionally, the desire for “just deserts” appears as the requirement for moral equilibrium because offenders must pay a moral debt (Jacoby 115).

Prior studies further suggest that there is a correlation between vengeance and justice because both aim at making the world a fair place by achieving moral balance. Apparently, there is a significant correlation between revenge and punishment. Revenge is vulnerable to returning harm in equal state as the harm suffered. This is the objective of the *lex talionis*, which aims to ensure the balance of the moral world using similar harms and only in the form of an eye for an eye, not two eyes for an eye. Therefore, as one aspect of justice, vengeance is helpful in realizing balance of harms. The only thing that distinguishes retributive punishment in administration of justice from revenge is that it operates through structured institutions (Heather and Strang 55-76).

The institutions separate the moral balance from the emotional perspective of the victim. It is this balancing of harms as a means to achieve balance in the universe, which theorists reject. Owing to this, they also reject the punitive and retributions as justice provided in the law books of the Bible. On the other hand, some scholars have commented on the criminal justice owing to two main reasons. One, they suggest that the criminal justice has failed because it still utilizes the traditional court-based reactions, which they say are retributive. This further suggests that the criminal justice system aims at achieving retaliation and punishment, or simply achieve retributive justice (McKee and Feather 138-163).

In the context of restorative justice, a number of prior studies suggest that punishment, retribution and retributive justice are not in line with restoration and restorative justice. In the proper sense of the critiques, the terms “retribution” ”retributive” both refer to the concept of punishment imposed on a wrongdoer as a means of just deserts. This means that the wrongdoers deserve the punishments because they instigated or called for the respective punishments. Therefore, the concept of just deserts of retribution refers to the rationale behind the imposition of punishment, arising from the offence, which the justice system opts for repayment to achieve balance by punishing the offender (Barton 41-53).

Currently, the available studies mostly from philosophers from modern time have patronized retributive punishment. Some of them suggest that retributive justice is the infliction of punishment in form of physical evil deserved due to a moral evil. Numerous Christian minds have taken in much a large portion of the Old Testament, and have managed to avoid righteousness when vengeance is being pursued on other people in reference to the *lex talionis* (eye for an eye paradigm) (Jacoby 115). Therefore, some scholars suggest that Christians should lead the campaign against retribution, instead campaign for community or social justice. They further suggest that social justice does not in any way support for revenge; this is because numerous studies have provided positive results on the

topic. Offenders associated with community service have proven that they can change a great deal of community policing.

Some studies have offered empirical data, which have shown that the community instills values that reduce reconviction rates among offenders who have stated that community justice is a worthwhile approach. The approach has substantial positive results and experiences most of which are characterized by high levels of contact with various advantages, and opportunities to learn new skills and work that has significant value or the recipients. The studies further suggest that requiring criminal offenders to work within a given community, separating them from other volunteers and stigmatizing them via conspicuous uniforms is a working strategy to relay the message that they can offer something to the community and the society (Antony 38-41).

Therefore, community justice or rather social justice as an alternative to retribution, is likely to offer the best results. Some studies suggest that retribution is a form of shame and the visibility of community as the most appropriate punishment will restore such shaming. Using the information provided as our point of reference, it is evident that the re-conviction figures for both community sentences and custody provide data, which most scholars predict beforehand. In simple terms, the community sentences as currently offered do not have any empirical proof, meaning that prison remains the best option (Pease 7). However, better community sentence regimes, will one day surpass the prisons as the indispensable option in reducing the re-conviction rates through retribution.

## **THE CONCEPT OF JUSTICE AND RETRIBUTION.**

There is worldwide agreement that the justice framework is reasonable in the administration of justice, to both the guilty party and the victim. Also, somebody needs to pay for the violations carried out, the agony dispensed to innocent people, as an endeavor to lessen or take out criminal exercises. In this manner, there is an inclination that there is accomplishment of justice, for both the casualty and the guilty party. What a few people overlook is that justice is a type of vengeance theme, which many people tend to oppose. The subject debatable, and one significance is that contemplating or leading various studies into on the theme, it will give a knowledge to judicial sentencing. The examinations from such a theme will likewise give substantial information on the reasonable contentions from philosophy, political, sociology aspect and their relationship with the administration of justice.

The objective of any justice framework is to convey justice to the victims, which makes it evident that the motivation behind justice is to rebuff transgressors or wrongdoers. In this manner, the justice framework fulfils its part of conveying justice to the victims. In any case, public perceptions concerning the motivation behind punishment are in two classes. They incorporate instrumental and retributive objectives. The instrumental objectives give legitimization with regards to future advantages, which are the likelihood of decreased crime. In this view, there is probability to

accomplish the goal (Carlsmith, Darley and Robinson 284-299), however some research recommends that this prompts retaliation as opposed to avoiding future wrongdoings.

Then again, retributive objectives are integral to the possibility that criminal wrongdoers should get punishment since they have disregarded the society's rules, and the punishment must show proportionality to the carried out violations. Also, the intensity of a punishment ought to depend on the apparent seriousness of the offense, the drive and the responsibility of a criminal guilty party. However, while retribution appears to have a connection to the repayment of such acts, this approach additionally incorporates various and different non-instrumental components of punishment, for example, morality, proportionality, concerns on justice and the of the retaliation of the offense.

From the above, the components offer a way to estimation of retribution. This has likewise prompted various examinations in this field. Consequently, there are various investigations, which contend for retribution as appropriate reward and retribution as vengeance. In the first case, the guilty party pays back for the mischief perpetrated on the victim, and in this manner, there is justice. The reclamation of justice in the first case is through proportionality and a reasonable procedure (Barton 12-80). Prominently, by clearing the debt, there is dissemination of negative and positive experiences, however there is accomplishment of a social equilibrium, and an ensuing reclamation takes after. Be that as it may, for this situation, there is a requirement for a fair procedure, which ought to depend on the seriousness of the offense to reasonable compensation.

On account of retribution as vengeance, individuals need to rebuff not just as a way to get even (to accomplish equilibrium), yet in addition as a type of retaliation. For this situation, further, it is clear that it is the community which levels the score with the included offender, and not the offender compensation for the carried out violations. The setting of vengeance, dependably includes the emotional fulfilment of seeing the offender experience a type of punishment, which influences them to endure. There are critical lessons from the second case, which incorporate; the seriousness of the offense does not really offer a limit to the cruelty of the given punishment, and there is accomplishment of equilibrium regardless of the possibility that the torment from the given punishment surpasses the earnestness of the wrongdoing.

Retribution as revenge refers to the utilization of harsh punishments as a means to get even with the potential offender, a concept, which several scholars commented aims at making the criminal offender suffer (Wenzel and Thielman 457-459). Two subscales measured or recorded retribution as revenge, suffering and getting even. On the other hand, retribution as just deserts refers to the desire to restore justice by allowing the criminal offender to compensate the community in equal terms owing to the harm inflicted.

Throughout this paper, there is a consistent definition of the term retribution, which refers to the desire to get even with a criminal offender. The offended team responds to them through making them suffer the same fate they inflicted to their victims. In this case, retribution as justice, involves a payback by the offender for the inflicted harm. I also consider an approach on punishment as a

means in, which the criminal offender pays back for the crimes one took or instigated. There are two popular justice-related motives, which appear regularly in literature and they include status, and value restoration.

Research suggests that through criminal activities, the criminals assume superiority, and show disregard for the victims. However, harsh punishment comes in and degrades the offender's status, by empowering the involved victims. Through this, it is apparent that harsh punishment brings about balance. In the second case, crime threatens the guidelines or rules that govern a given society. Punishment, labels the committed offence as wrong and this further restores the society's faith in shared values. Power is substantially relevant to the revenge perspective on retribution. This is because retaliation of a past offence makes the offender suffer degradation and this makes them return the power to the victim or the society.

On the other hand, the victim or society achieves value restoration when an offender compensates in proportion to the harm they caused. Some important ideological dispositions including right wing authoritarian and social dominance orientation have shown significant contribution to understanding retribution. RWA and SDO have different motivational factors, which explain their varied predictions concerning punitive attitudes for divergent reasons and under varied situations (Thomson, Eva and Sidanius 1455-1464). Research suggests that RWA is the co-variation of three attitudinal factors, which include authoritarian submission, authoritarian aggression and conventionalism. The RWA factor is central to the personality of an individual in the social context, which shows support for harsh punishments and to reactions concerning retribution on criminal offences.

In addition, RWA shows correlations to moral balance, social constructiveness, deterrence and incapacitation, but not with revenge. Overall, individuals high in this factor support harsh punishment, only if it happens within the legal fraternity, but not if the victim seeks to achieve revenge (Umbreit 52-57). Owing to this, we can conclusively deduce that RWA has a positive link to both approaches of retribution. On the other hand, SDO refers to the preference for hierarchical connection between groups as well as for in-group dominance against out-groups in a social context. This aspect captures the motivational objective of group dominance, authority and superiority. The aspect is further predisposed by a tough personality, which records two approaches, a common preference for inequality and a preference for one's groupings to achieve dominance over other groups. Therefore, people high in SDO are likely to endorse attitudes, which will offer a reinforcing status, and most of them portray likelihood to support punitive attitudes (Pratto et al. 741-763).

## **CONCLUSION**

For this paper, it is apparent that there exists a connection between retribution as a form of justice, and retribution as a form of revenge. On one hand, retribution as revenge refers to the desire to get even with a criminal offender through making them go through the same ordeal of harm, or

any other as long as they suffer. On another hand, retribution as just deserts refers to the desire to restore justice by giving the criminal offender the opportunity to compensate proportionally owing to the harm the inflicted. However, the two elements differed in their manners in, which they preferred to treat the criminal offenders. Additionally, this study further provides information concerning people high in SDO and RWA (Wenzel and Thielman 457-459). They both differ in the manner they perceive retribution. However, a major significant is that they both support punitive policies. However, arguing based on the content of this research paper, various studies have provided a critique concerning the research topic. It is apparent that retribution is just another form of revenge, although the justice system would put it in another way. The ultimate goal of the justice system is to reduce the crime rates, or rather the criminal offenders. Therefore, looking at the way they do it, it is just a revenge (retribution), to achieve justice for both the offender and the victim. How do they achieve this?

The offender either gets a jail term, a fine or both, and in so doing, the victim feels there is justice. However, this is just a punitive method of justice, which provides no positive results for the future owing to the fact that imprisonment does not deter or reduce criminal behavior. A number of prior studies have suggested that an alternative method to retribution, community justice, is the most appropriate way to “punish” criminal offenders. In contrast to retribution, the method makes the offender feel that they can offer something positive. Community justice has the capacity to instill positive values to criminal offenders who stop re-offending and join the community to develop. Although there is inadequate, empirical evidence on these studies advocate for community justice as an alternative for retribution.

## WORKS CITED

- Allen, Rob, “Justice Reinvestment: Making sense of the costs of imprisonment.” *Criminal Justice Matters*, 71.1 (2008): 41-42. Print
- Antony, A Vass. *Alternatives to Prison: Punishment, Custody and the Community*. London: Sage, 1990. Print.
- Barton, Charles. *Getting Even: Revenge as a Form of Justice*. Chicago and La Salle: Open Court Publishing, 1999. Print.
- Barton, Charles, “Theories of Restorative Justice.” *Australian Journal of Professional and Applied Ethics*, 2.1 (2000): 41 – 53. Print.
- Carlsmith, Kelvin M, Darley, John. M. and Robinson, Paul. H. (2002). “Why do we punish? Deterrence and just deserts as motives for punishment.” *Journal of Personality and Social Psychology*, 83.2 (2002): 284–299
- Clear, Todd R and John Jr. Hamilton. *Community Justice (2nd ed)*. London: Routledge, 2011. Print.

- Heather, Strang, and John Braithwaite (Eds.). *Restorative Justice: From Philosophy to Practice*. Aldershot: Dartmouth, 2000. Print.
- Jacoby, Susan, *Wild Justice: The Evolution of Revenge*. New York: Harper and Row, 1983. Print.
- McKee, Ian R, and Feather, N, “Revenge, retribution, and values: Social attitudes and punitive sentencing.” *Social Justice Research*, 21.2 (2008): 138–163.
- Moore, David, “Shame, Forgiveness, and Juvenile Justice.” *Criminal Justice Ethics, Winter/Spring*, 12.1 (1993): 3 -25.
- Pease, Ken. *Prison, Community Sentencing and Crime*. London: Civitas, 2010. Print.
- Pratto, Felicia et al, “Social dominance orientation: A personality variable predicting social and political attitudes.” *Journal of personality and social psychology*, 67.4 (1994): 741-763. Print
- Thomsen, Lotte, Eva, G T Green, and Sidanius, Jim, “We will hunt them down: How social dominance orientation and right-wing authoritarianism fuel ethnic persecution of immigrants in fundamentally different ways.” *Journal of Experimental Social Psychology*, 44.6 (2008): 1455–1464. print
- Umbreit, Mark S, “Crime Victims Seeking Fairness, Not Revenge: Towards Restorative Justice.” *Federal Probation*, 53.3 (1989): 52–57. Print
- Wenzel, Michael, and Thielmann, Ines, “Why we punish in the name of justice: Just desert versus value restoration and the role of social identity.” *Social justice research*, 19.4 (2006): 457-459. Print