

(4)

Suppose there are two alternative punishments for the same criminal offense, A, six months in prison, and B one year of community service (with no prison term). Imposing punishment A would incapacitate convicted offenders and, thereby, render them incapable of engaging in criminal activity for the duration of the punishment. On the other hand, imposing B would have no such incapacitating effect.

May predicted dangerousness serve as a morally legitimate basis for imposing a particular penalty upon certain convicted offenders for a given offense? Or, would incapacitated offenders -- e.g. those who receive punishment A in the above example - have any legitimate objection to their punishment if other offenders who committed the same offense, but who are considered predictably non-dangerous, receive a less restrictive punishment -- e.g. punishment B in the above example? In either case, state your reasons.

**Moderator's Answer: Society may not justifiably base punishment upon predictions of a person's predicted dangerousness. such predictions cannot be made with accuracy. Furthermore, even if they could it would still be wrong to base punishments upon them. This is because punishment on the basis of predicted dangerousness imposes penalties upon a person for what he might do rather than what he actually did. Thus suppose, for example, there are two young drug offenders convicted of the same offense, but one is from a wealthy suburban environment and the other from an impoverished inner city environment. suppose that the latter environment is more strongly correlated with future criminal acts than the former. This difference cannot morally justify imposing a more severe sentence on the offender with an impoverished inner city background. The only approach that is morally justifiable for society to deal with the relationship between a particular environment and criminal behavior is to try to eliminate the factors in that environment that tend to producer crime.**