

The justice system

An important question that should be asked in debates about the justice system is what the goal of the justice system should be. There are several possible answers to this question.

- To promote good?
- Retribution for wrongdoing?
- To deter people from committing crimes?

Rehabilitation

Rehabilitation aims to prevent crime by removing the incentives people have to do so. Rehabilitation most often happens through education. Education provides several benefits:

- prisoners gain skills which makes it easier for them to find work
- prisoners are humanised

Note

Prisons come with several drawbacks:

- * high levels of violence
- * abuse by officials in authority -> this leads to a lack of respect for authority officials
- * gangs can often form in prisons (particularly when there is a need for protection)
- * prisons can cause inmates to become institutionalised making it harder for them to exist in normal society



Note

If prison becomes less unpleasant why won't people just re-offend because the punishment is not severe?

- * prison comes with a loss of freedom
- * a judge would sentence a re-offender differently to a first-time offender.

Deterrence

One common aim of a justice system is to dissuade people from committing crimes. One way of doing this is to give people harsher sentences in the hope that:

- it will dissuade potential criminals from committing a crime
- it will dissuade people from re-offending
- it will send a moral message that a crime is wrong and denounce it There are a few arguments against harsher sentencing resulting in a reduced number of crimes:
- many crimes are 'impulse crimes' – crimes which occur in the heat of the moment and are thus not thought through
- when people commit a crime, they usually do it without the expectation that they will be caught
- people may commit crimes for reasons which a harsher punishment will not remove
 - theft/drug dealing is often carried out because the people doing it need to make money to survive
 - people join gangs out of fear for protection and this pushes them to commit crimes
 - people are pushed towards crime by their relatives
 - people commit crime as part of anti-governmental organisations

Retribution

The aims of retribution are 1. to provide revenge for the victims 2. to bring closure to the victims in two ways 1. to satisfy their anger 2. to make them feel satisfied

Culpability

To determine whether someone is culpable of a crime two things should be considered

- is it the fault of the person who did the crime? (in law this is referred to as the 'actus reus')
- did the person intend to commit the crime? (in law this is referred to as the 'mens reus')

People might commit crimes for reasons which would decrease their culpability.

- They might commit a crime out of economic necessity.
- They might commit a crime because they have been blackmailed into doing it
- They might be too young to understand the fully understand their crime – younger children often don't have as developed as sense of morality

Free will

It is very difficult to define what free will is but this section briefly touches on some useful material.

"There's no free will," says the philosopher;
"To hang is most unjust"
"There is not free will," assent the officers;
"We hang because we must"

Poem by Ambrose Bierce

There are several arguments that we lack free will: * everything is just atoms hitting each other – within this structure humans cannot exert free will because our brains are made up of these atoms * we live within a deterministic system in which the course of the universe is set and cannot be changed * the possible existence of God * external forces * social norms * economic conditions * parents/education

One argument is that we have free will but only at specific moments in time.

Further reading

- Chapter 19 of Scott Aaronson's [Quantum Computing Since Democritus](#) is an interesting read (beware it does have a little maths and computing contents) about the use of free will as a legal defense.

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