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Ethics and the Profession

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Dealing with a Criminal Society

For thousands of years humanity has been building societies to support groups of people living together in unison. Society yields humans the benefit of a collective intelligence in which to solve everyday problems, thus bringing comforts and growth to humans that no individual could ever obtain by themselves. However, the balancing of society and its individuals' needs and desires often times proves to be a much more difficult task than it seems. When a society contains a large number of people, each with different views of life, values, different opinions as to what is right and wrong, and in general, different moral beliefs altogether, it can quickly become very tough to reach a majority conclusion on matters. These matters include such things as deciding what an individuals' responsibilities or duties to society, safety and such. Furthermore, how does society decide the conditions of which to punish an individual for not fulfilling their responsibilities or duties? In this paper I will discuss what it means to commit a crime as well as common factors that provoke people to commit crimes. I will then attempt to answer the question of who is actually responsible for criminals' actions, is it society's collective responsibility to prevent crime or is it solely the criminal's responsibility. Furthermore, in the case that both agents share a portion of responsibility, what is an appropriate measure to fairly distribute responsibility?

When one speaks of creating laws, regulations, statutes, or judicial decisions to attribute responsibility for an action or set of actions that the results in harm, the word cause is often used. The concept of causality is important in establishing a connection between agency and harm. That is to say that if event A does not cause event B, and event B results in harm, then it is logical to assume that event A is not responsible for the harm resulting from event B. It is these connections of causality that determine an agent's responsibility for an action, and this philosophy of law is still found in modern judicial systems (Honoré). In terms of the judicial system, this responsibility of action will be specifically referred to as legal responsibility.

However, the notion of causing harm and legal responsibility is still very complex. For instance, in our modern legal system, legal responsibility is inherent only to natural humans, and juristic persons such as corporations, states, and other organizations legally ascribed rights of personality (Honoré). This makes sense as it is pointless to place any legal responsibility on natural events, such as a hurricane. I am certain that if a person takes a hurricane to court for murdering his/her family, the case would likely be rejected.

Legal responsibility can also be indirectly placed upon an agent. This can be seen in many cases and is an important factor when attributing legal responsibility. Let's take a look at a common observation of this indirect attribution of legal responsibility. In the town of XYZ, Sam regularly goes jogging in the morning with his dog Fido, however, he ignores the leash laws in his town that state all dogs must be leashed in public. Then one day his dog mauls a wandering bystander. Even though Sam did not directly cause harm to the bystander, the legal responsibility trickles upward towards the dog's owner, Sam. Another observance is

when a car company produces a faulty car, and as a result several fatalities occur. The car company would hold legal responsibility for the harm caused to the consumers. There is a limit to how far legal responsibility can be extended. A contraceptive company cannot be charged with murder if a consumer uses the contraceptive, gets pregnant and dies due to complications giving birth (Honoré).

The next factor, and probably the most important issue, to bring up is harm. How does one determine whether or not an action is harmful to another? After all, it is the only for the reason that one is harmed that we decide to punish their actions. In our present legal system harm need not be tangible harm but also includes more intangible forms of harm such as property disputes, patent infringement, etc. John Stuart Mill in “Liberty,” introduces what he calls the harm principle, which states that “the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.” (Mill 42) In short, Mill believes the government should not punish an individual’s actions unless the person’s actions causes harm to another person(s). This ideology has been around for many years and even today is still found in virtually any modern societies.

While I do not necessarily disagree with Mill and his harm principle, and the general notion of punishing criminals as all modern societies do, I believe that there is another issue at hand. I will start with the assumption that one of the roles of the government is to protect its citizens. This would include creating establishments and laws to deal with criminals. However, dealing with criminals is, in my opinion, more than just dealing with the crime after it happens. It is also important to prevent crimes from occurring. There is much evidence in our society of the government’s efforts in crime prevention through programs which allow

local police to engage in activities with children and the community. This brings the police and the citizens of whom they are assigned to serve and protect closer together. A well known program is D.A.R.E. (Drug Abuse Resistance Education). The general idea of the programs is to educate the young, and increase their awareness of crime and what it means to do the “right” thing, which brings me to the topic at hand, the correlation between education and crime.

What are the secret sauces that when blended together creates a criminal? I’m certain most people would agree that it really is not secret. One author in UK states that official statistics show that 52 percent of male offenders and 72 percent of female offenders have absolutely no qualifications. Nearly half of all inmates have a very poor literacy rate and two thirds have equally low math skills. Another interesting statistic is that at the time of their arrest, approximately 67 percent of criminals were unemployed (James). The Bureau of Justice Statistics (BJS) also shows poor evidence of corrected behavior among released prisoners, showing that as much as 67.5 percent of prisoners released are within 3 years readmitted to prison (BJS).

On top of demonstrating poor rehabilitation rates America also has the world’s largest prison population. In 2005, approximately 7 million Americans were behind bars (MSNBC). This statistics sadly has not shown much signs of a noticeable decline. To put America’s incarceration rate into perspective, America has 5 percent of the world’s population and 23.4 percent of the worlds’ incarceration rate. The Peoples Republic of China comes in second with a reported 1.6 million people behind bars (United States Incarceration Rate). With an estimated population of 1,338,612,968 in China, and 309,120,000 in America, one can easily

see the large incarceration rate. They also have the highest execution rate (76 per 100 million as opposed to the US with 18 per 100 million (Wall Street Journal)) in the world, which may help to explain the lower crime rate. It is also widely criticized that China does not honestly post numbers of those executed (like those in labor camps and “political” prisoners). Regardless, the promise of execution can be a large deterrent, perhaps larger than incarceration.

Given the problem of high crime rates despite high incarceration rates as well as extremely high rearrest rates, it seems evident that the system is not functioning at an adequate level. So what is it that causes criminals to go criminal, and what can be done to rehabilitate criminals back into society?

The National Academy of Sciences says that, "personal and neighborhood income are the strongest predictors of violent crime" (Shermon p. 88). It is a fact that poverty and education are key factors to people becoming criminal. In fact, those two causing factors form a vicious cycle. If a person is poor or lives in a poor neighborhood then their chances of receiving a poor education increase dramatically. As a result, a poorly educated individual is less likely to even realize the value of having a good education, and even if they do, it might be too late to take advantage of this as they may already be in their late teens or adults. A lack of education also directly contributes to not obtaining a good job, and as a result having to live in poverty. People who are stuck in poverty may also find that even if they want to improve their lives by attending a vocational school or college, they will still suffer from a variety of disadvantages. Disadvantages can range from simply not being able to afford a

higher education, to not having the means or experienced peers to aide in your seek to success.

Consider human biology; we have 20 times the number of brain synapses when we are born than we do as adults. A person's thoughts and memories, of which are stored in complex synaptic patterns, suffer directly from delaying the learning process. Let's observe some simple physiological concepts about the human brain. The brain is a highly connected system, containing around 15-33 billion neurons, and each neuron containing approximately 10,000 synapses (brain). The connectivity is unimaginably large. As such simple combinatorics show that a factor of 20 times less synapses/connections equates not in 20 times less learning capacity, but many 10,000's times less the learning capacity. This is direct proof that education is important at a young age, and for someone raised without education, they could potentially be jeopardized for life.

It is interesting to take note of Japan's low incarceration rate, 79,055, or 62 in 100,000 people. Japan is also very well known for its excellent education system. Despite some sources claiming that America has a 99 percent literacy rate, there are many other sources that argue that America's literacy rate, as well as other academic subjects such as geography and mathematics, is lacking when compared to other modern countries. According to one source, of 2.4 million Americans that graduate each year, 25 percent cannot read or write at an 8th grade level. Most 17 year olds in school cannot summarize a newspaper article, write a job request letter, solve real life math problems, or even follow a bus schedule. In the United States, 33 percent of high school students drop out, and after a 12 week summer the average student forgets 33 percent of what they have learned (Kim).

Let's compare that to a Japanese student's education. A typical student spends 6 hours every night doing homework. A typical school year that is 60 days longer than America's. Following a regular school day 18.6 percent of elementary school children and 52.2 percent of middle school children attend Juku cramming schools, this often times results in them not arriving home until midnight. That's an incredible 18 hour work day. At the age of 18, 98percent voluntarily seek higher education in a university. In early adolescence, Japanese students are 2 to 3 years ahead of their American counterparts and by the age of 18, 98 percent of Japanese students far surpass that of Americans of the same age (Kim).

There are obviously clear differences between the two countries' education levels. However, I feel obligated to mention that I am not directly criticizing the education institutions but the education levels. Though that may seem strange at first, it turns out the most success in the Japanese education is in fact not the public schools, but private schools and even furthermore, its cram schools (Juku). Though, when you consider America's 26 letter alphabet (52 including capitalized letters), versus Japan's more than 2000 Chinese characters + two alphabets (katakana and hiragana), it is shocking to hear the literacy rates of each country compared. I believe that if America is to want to successfully lower its crime rate it should place more emphasis on increasing education.

I think that it is a moral responsibility to prevent crime. As I have been pointing out, perhaps the best way to prevent crime is to educate the young. One could use Mill' harm principle to argue for this, as crime is prevented, though not abolished, through higher education. One could argue that perhaps too much education would be detrimental to society as a whole, but I think that we are far from over-education.

Another very interesting aspect of a society is its culture. A society's culture can act to govern a person's actions through the establishment of moral values. Often times these moral values may even influence ones' thought such that even without a high quality education the person still acts in a moral way, and not perform criminal actions. Examples of this a culture that promotes positive values include most religions, but also include examples like the Japanese culture of "Respect." In most cases the people of Japanese people are very conscious about how or what others think about themselves, and of course with all these kinds of moral systems, there is a large social pressure to "fit in" or face the consequences. The consequences need not necessarily be harsh physical punishments (though they may sometimes be), but are many times as simple as being "rejected" from society, or being looked down by all your peers. This kind of punishment, often times causes people to conform to the will of the majority. It is these sorts structures that reminds me of the Panopticon, a type of prison created by Jeremy Bentham, in which the prisoners could at all times be watched, even without knowing they were being watched, and as a result the prisoners do the "right" thing. Bentham himself described the Panopticon "as a new mode of obtaining power of mind over mind, in a quantity hitherto without example." Furthermore, the French philosopher Foucault used the Panopticon as a metaphor to describe society, where the prison represents society, and the individual prisoners represent individuals in society. Foucault believes that similar structures, not just prisons, but schools, factories, hospitals, etc, have all evolved to resemble Bentham's Panopticon (Panopticon).

In countries where the demographics and culture is largely homogeneous, it is easy to establish and overall set of moral values of which to aid in governing a society's actions. However, in countries like America, which are melting pots for a large number of different

racess, cultures, and ideologies, it proves very tough to find a common moral code for everybody to live by. This is perhaps one of the many potential reasons for the high crime rate in America.

Before moving on lets pull everything together in a concise manner. In our modern society people are held responsible for crimes that they caused. This is of course necessary; however, we have also observed that though a criminal must be held responsible for his crime, it is not entirely the criminals fault. Instead, it is evident that any ordinary person under the influence of a culture (family, local, and all other influencing subcultures), poverty, and lack of education are molded into their current forms. This includes the potentiality of being molded into a criminal. As such, I believe it is as important to prevent persons from becoming criminals through building society's moral structures and education systems as it is establishing an effective system for punishing a criminal's offences.

The key word in the previous paragraph is "effective." As previously mentioned, our prison system has a terrible rehabilitation rate, yielding a 67 percent recidivism rate. This is not what I would define as an effective system. Luckily, a large number of people ranging from legal philosophers to educators have recognized this and began various researching and developing various programs to reduce recidivism. Reducing recidivism is what I believe may prove to be more important than more mundane and traditional methods of punishment. After all, if one follows Mill they would see humans as progressive, and as a progressive society it is important to also find new more effective ways in dealing with criminal actions. Long traditional prison systems may one day prove inadequate in comparison to highly effective rehabilitation systems are combined with prison systems.

One of the biggest controversies with the implementation of education and rehabilitation programs in prison systems is the costs. Some people proclaim that it is too expensive, while other people claim they are ineffective because society does not really allow ex-convicts to fully and equally engage in society after being release from prison (Harrington). For example, even after serving time, a prisoner convicted as a felon will have to write on every job application that he was a prior felon. What is the point of serving time in prison if the charge is going to be held over a person's head for the rest of their life anyway? However, this seems to be more a failure of the judicial and legal system, than issue with prison reform.

To shine a positive light on prison reform and some cases of clear success in decreasing the rate of recidivism, I will discuss a few rehabilitation programs that have already been implemented. A common theme amongst American prison system is the enormous increase of drug use in America. Substance abuse has become a major reason for incarceration, representing large percentages of prisoners. This has resulted in a large scale effort to more effectively treat substance abuse prisoners through rehabilitation programs while in prison. This effort is all based on the assumption that the large numbers of substance abuse charges are even worth considering serious crimes, as there are many controversial opinions regarding this.

One of which, demonstrated very impressive rehabilitation results. In a study at Brown University, Dr. Craig T. Love conducted a study on substance abuse inmates. Researchers collected data for 24 months prior to and after inmates' release from prison. Approximately

two thirds of the inmates did not voluntarily participate in one of four tier treatment programs.

The tiers in increasing intensity order were:

Tier one: Six sessions of drug and alcohol education over a one-week period.

Tier two: 30 group outpatient sessions given three days per week for 10 weeks.

Tier three: Intensive day treatment of 64 sessions, four days per week for four months.

Tier four: A full-time residential program for six months in a separate housing unit.

The results were astounding. After six months, 17.9 percent of those who had attended a tier program had been rearrested compared with 28.8 percent of those who did not attend. At one year 32.5 percent of inmates that attended a tier program had been rearrested versus 45.9 percent of non-attendees (Love). This shows a direct correlation between the integration of substance abuse treatment programs into prison systems. Further break down of the statistics into individual tiers yields even more useful information. First consider the average rearrest rate to be 45.9 percent for inmates not attending treatment programs. Attendance of tier one actually resulted in a negative result, a small increase in the probability of rearrest, to 49.3 percent. However, attendance of tier two programs decreased the rearrest rate to 37.4 percent, tier three reduced rates to 27.2 percent, and inmates attending tier four programs showed the most positive results of only a 23.5 rearrest rate (Love).

Other statistics of interest include the financial statistics for the cost of treatment programs versus costs of housing inmates. Excluding tier one treatment programs, all other tier programs experienced large savings by successfully rehabilitating inmates. Tier two was most cost-effective, at a cost of only \$672 per client (\$7,931 for the whole treatment), saved

approximately \$37,605 upon successful treatment. Tier three and four programs saved \$31,233 and \$20,098 respectively upon successful treatment (Love). Despite the decrease of cost benefit, I would argue that before concluding on which tier is overall optimal seeing more long term projections are necessary. For example, knowing the rearrest rates, not only for two years, but for four, six, ten years would truly demonstrate long term rehabilitation. Either way, rehabilitation did prove to be effective when implemented.

For the larger portion of human history we have been engaging in the traditional form of punishment, in which when a member of society breaks the law, they are punished. Whether this by means of prison time, fines, or even capital punishment, they are all punishments issued after a crime is committed. But I challenge people to look at society in a larger scope. Is it enough to only punish a wrongdoer? Or instead are criminals born as a result of society failing to provide individuals with the proper set of morals and education required to allow them to live a productive non-criminal life? If it is such then I think that society carries a portion of the responsibility for the crime of which ensues. In conjunction with traditional punishment, criminals should also be forced into rehabilitative programs to instill proper skills and knowledge to prevent them from falling back into their all familiar lifestyle which led them to crime in the first place.

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