



Research Article

Beyond Punishment: Reassessing the Relationship Between Theories of Punishment and Theories of Justice through Retributive and Restorative Paradigms

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Abstract

Justice has always been reckoned as one of the fundamental political virtues. The ideal of justice enables people to cooperate and maintain peaceful coexistence in society. Justice is both a legal and moral concept—giving a person his or her dues through fair allocation of rewards or punishments. However, the idea of "fairness" itself remains deeply contested. This article critically examines whether theories of punishment can be regarded as theories of justice within contemporary criminal justice philosophy. Punishment has traditionally been treated as the principal mechanism through which justice is achieved. Drawing upon classical and contemporary debates on retributive, utilitarian, corrective, distributive, procedural, and restorative approaches, the article argues that theories of punishment constitute only a limited subset of justice rather than its complete expression. Whereas retributive theories justify punishment primarily based on deservedness and proportionality, restorative justice shifts attention toward repairing harm, restoring relationships, addressing victims' needs, and facilitating offender accountability through participatory processes. The article contributes to contemporary debates in criminal justice theory by challenging the conceptual equation of punishment with justice and by advancing restorative justice as a complementary normative framework capable of addressing important limitations of conventional retributive approaches. This analysis has implications for criminal justice policy, sentencing philosophy, and future theoretical discussions concerning the relationship between punishment, accountability, and social justice.

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1. INTRODUCTION

The relationship between punishment and justice remains one of the most enduring and contested questions in political philosophy, legal theory, and criminology. Modern criminal justice systems generally focus on the imposition of punishment as a primary response to crime. Courts determine guilt, states impose sanctions, and the resulting punishment is widely interpreted as the completion of the justice process. This conventional understanding has shaped criminal justice institutions across jurisdictions and has positioned punishment as the principal response to crime. Yet such an assumption raises an important philosophical question: does the delivery of punishment necessarily amount to the realisation of justice?

Although theories of punishment and theories of justice frequently overlap, they are conceptually distinct. Theories of punishment primarily seek to justify why offenders should be sanctioned and what purposes punishment serves, including retribution, deterrence, incapacitation, and rehabilitation. Theories of justice, by contrast, address broader normative concerns relating to fairness, rights, equality, accountability, and the restoration of social order. This distinction is particularly significant given the increasing recognition that criminal wrongdoing generates relational, psychological, and social harms that cannot always be addressed through punitive sanctions alone.

Classical theories of punishment, particularly retributive and utilitarian approaches, have long dominated criminal justice philosophy. Retribution justifies punishment based on moral deservedness and proportionality, whereas utilitarian approaches defend punishment because of its anticipated social consequences, such as deterrence or crime prevention. Although these theories provide influential justifications for punishment, they remain primarily offender-centred and backwards-looking. More recent developments in restorative justice scholarship have challenged this orientation by emphasising repairing harm, restoring relationships, recognising victims' needs, and encouraging offender accountability through dialogue and participation.

This article argues that theories of punishment do not, in themselves, amount to theories of justice. Rather, punishment represents one possible instrument through which justice may sometimes be pursued, but it neither exhausts nor defines the concept of justice. From this perspective, restorative justice provides an important corrective to the limitations of exclusively punitive models by broadening the objectives of criminal justice beyond the infliction of suffering.

The article therefore critically examines the relationship between theories of punishment and theories of justice through a comparative analysis of retributive and restorative paradigms. It demonstrates that although punishment may satisfy certain legal and moral objectives, justice requires a more comprehensive framework capable of addressing victims' harms, offender accountability, and the restoration of social harmony. In doing so, the article contributes to contemporary debates in criminal justice theory by challenging the widespread conceptual identification of punishment with justice and by arguing for a more expansive understanding of justice within modern legal systems.

Research Gap

Existing scholarship has extensively examined individual theories of punishment and justice, particularly retributive, utilitarian, and restorative approaches. However, comparatively little attention has been devoted to the more fundamental conceptual question of whether theories of punishment should themselves be regarded as theories of justice. Much of the literature assumes that punishment is synonymous with justice, rather than critically examining the normative relationship between these concepts. This article addresses that gap by arguing that punishment constitutes only one possible mechanism for achieving justice and that justice possesses a broader moral and political scope that cannot be reduced to penal sanctions alone.

Research Questions

1. Do theories of punishment amount to theories of justice?
2. To what extent are punishment and justice conceptually distinct?
3. What are the normative limitations of retributive justice?
4. Can restorative justice provide a broader framework for achieving justice within contemporary criminal justice systems?

1. Theories of Punishment

Punishment occupies a central position in modern criminal justice systems, serving as the primary institutional response to criminal wrongdoing. Across legal traditions, the imposition of punishment has long been regarded not only as a mechanism for enforcing legal norms but also as an expression of society's moral condemnation of unlawful conduct. Nevertheless, the philosophical justification for punishment remains deeply contested. While criminal justice systems generally presume that offenders should be punished, scholars continue to disagree about the normative objectives that punishment ought to serve and whether punishment, by itself, constitutes the realisation of justice.

The justification of punishment extends beyond the simple infliction of suffering upon an offender. Rather, punishment is a legally sanctioned response imposed by a competent public authority following the determination of criminal liability (Packer 1968). This distinction is significant because punishment differs fundamentally from private revenge or retaliation. Whereas acts of vengeance are driven by personal emotions and lack institutional legitimacy, punishment derives its authority from legal procedures, public accountability, and the rule of law. Consequently, the legitimacy of punishment depends not only on its legal authorisation but also on its conformity with principles of proportionality, fairness, and due process.

Theoretical debates concerning punishment have generated several competing explanations of its purpose. Although these theories differ in their philosophical assumptions, they collectively seek to explain why states are morally justified in imposing sanctions on individuals who violate criminal laws. Contemporary criminal justice theory generally identifies five principal objectives of punishment: rehabilitation, general deterrence, special deterrence, incapacitation, and retribution.

Each theory reflects a distinct understanding of crime, offender responsibility, and the relationship between punishment and justice.

1.1 Deterrence

The deterrent theory of punishment justifies punishment primarily in terms of its preventive consequences. Rather than focusing on the moral culpability of offenders alone, deterrence seeks to reduce future criminal behaviour by making the costs of offending outweigh its anticipated benefits. The underlying assumption is that rational individuals are less likely to engage in criminal conduct when they perceive a credible threat of legal sanctions.

Deterrence operates at two interconnected levels. General deterrence aims to discourage potential offenders by demonstrating the consequences of criminal behaviour through the punishment of those who violate the law. Specific deterrence, by contrast, seeks to prevent individuals who have already offended from committing future crimes by exposing them to the unpleasant consequences of criminal sanctions. In both forms, punishment is justified because of its expected capacity to reduce future offending rather than because offenders intrinsically deserve to suffer.

Despite its practical influence on criminal justice policy, deterrence has been criticised for assuming that individuals consistently make rational calculations before committing crimes. This assumption may not adequately explain offences committed under conditions of emotional distress, psychological impairment, structural deprivation, or impulsive behaviour.

1.2 Incapacitation

This approach shifts the focus from moral reform or behavioural modification toward the physical neutralisation of the offender to prevent immediate harm to the public. By physically isolating individuals from the community, incapacitation prioritises societal safety over the potential for offender reintegration.

Unlike deterrence, incapacitation seeks to prevent future offences by restricting offenders' physical capacity to commit crimes. Through imprisonment or other legal restrictions on liberty, the offender is temporarily removed from society, thereby reducing opportunities for further criminal conduct. The effectiveness of incapacitation therefore derives from limiting opportunity rather than altering motivation.

Although incapacitation and deterrence often produce similar practical outcomes, they rest upon different philosophical foundations. Deterrence attempts to influence future decision-making by creating fear of punishment, whereas incapacitation physically prevents offending irrespective of whether the offender's attitudes or intentions have changed. This distinction highlights the different ways in which criminal justice systems pursue public protection.

Nevertheless, incapacitation raises important ethical concerns regarding proportionality and excessive imprisonment. By concentrating primarily on risk reduction, the theory may overlook broader questions concerning offender rehabilitation and social reintegration.

1.3 Rehabilitation

The rehabilitative or reformatory theory of punishment represents a significant departure from punitive approaches that emphasise suffering or exclusion. It proceeds from the assumption that criminal behaviour frequently results from social, psychological, educational, or economic circumstances rather than from inherently criminal character. Consequently, punishment should seek to transform offenders into law-abiding citizens rather than merely inflict suffering upon them.

Within this framework, imprisonment is justified only insofar as it provides opportunities for education, vocational training, psychological counselling, behavioural intervention, or other corrective measures designed to facilitate reintegration into society. Rehabilitation therefore conceives punishment as a constructive rather than purely punitive institution.

Although rehabilitative approaches have significantly influenced modern correctional philosophy, critics question whether compulsory rehabilitation may conflict with individual autonomy or whether correctional institutions possess sufficient resources to achieve meaningful behavioural change.

1.4 Retribution

Retributive theory remains one of the most influential philosophical justifications of punishment within contemporary criminal justice systems. Rooted principally in Kantian moral philosophy (Kant 1996), retributivism maintains that offenders should be punished because they deserve punishment for voluntarily committing wrongful acts. Unlike consequentialist theories, retributivism does not justify punishment by reference to its future social benefits but regards punishment as an intrinsic requirement of justice.

Under this approach, punishment must be proportionate to the seriousness of the offence, thereby reflecting the offender's moral responsibility. As Hart (2008) argues, retributive punishment rests upon three central principles: punishment should be imposed only upon those who have voluntarily committed wrongdoing; the severity of punishment should correspond to the gravity of the offence; and punishment is justified because the voluntary commission of moral wrongdoing itself warrants a proportionate response.

Retribution has exercised considerable influence over sentencing theory because it emphasises accountability, proportionality, and respect for individual moral agency. However, this perspective faces significant criticism for its neglect of societal outcomes, as it prioritises backwards-looking desert over the potential for crime prevention or offender rehabilitation. Furthermore, contemporary scholars argue that retributive justifications are conceptually and empirically flawed, often failing to address the fundamental question of why the state holds the moral authority to intentionally inflict harm (Von Hirsch 1993).

1.5 Compensation

The compensatory theory of punishment seeks to repair the material or personal losses suffered by victims by requiring offenders to provide restitution or financial compensation. Rather than concentrating exclusively on the punishment of offenders, compensation recognises that criminal acts

frequently generate tangible harms that require practical remedies.

Compensation occupies a distinctive position among theories of punishment because it partially shifts the focus from state-centred punishment toward victim-centred justice. By requiring offenders to acknowledge responsibility through restitution, compensatory approaches contribute not only to accountability but also to repairing the consequences of criminal conduct. Nevertheless, compensation alone cannot adequately address all forms of harm, particularly cases involving severe violence, loss of life, or profound psychological trauma.

Furthermore, contemporary penal frameworks increasingly integrate these perspectives into hybrid models, acknowledging that justice must balance retributive demands with utilitarian strategies such as deterrence and restorative goals. These compromise theories often utilise the "general justifying aim" of punishment alongside restrictive means to reconcile the competing demands of retributivism and consequentialism (Hart 2008). In this pluralistic environment, the penal field has expanded to incorporate diverse frameworks such as right-forfeiture models (Morris 1968) and self-defence theories (Gruber 2010), reflecting a move away from reliance on any single ethical doctrine. This shift toward pluralism acknowledges the perennial limits of singular penal theories, as scholars now increasingly argue for redefined models that treat traditional principles—such as just desert—as moral upper bounds rather than absolute imperatives.

2. The Philosophy of Punishment

The philosophical justification of punishment has long occupied a central place in legal and political philosophy. Although criminal justice systems universally punish violations of the law, scholars continue to disagree on the normative principles that justify its imposition. At the heart of this debate lies a fundamental question: why should the state possess the moral authority to inflict suffering on individuals who have committed criminal offences? The answer to this question has traditionally been developed through two competing philosophical traditions—retributivism and utilitarianism. These traditions differ not merely in their justification of punishment but also in their understanding of justice, individual responsibility, and the legitimate purposes of criminal law.

Broadly speaking, theories of punishment may be classified into deontological (retributive) and consequentialist (utilitarian) approaches. Whereas deontological theories evaluate punishment according to principles of moral duty and desert, consequentialist theories justify punishment in terms of its anticipated social outcomes. The distinction between these traditions continues to shape contemporary debates on sentencing, criminal liability, and penal policy. Yet, the rigidity of this binary is increasingly contested, as pluralistic frameworks suggest that punishment can be justified by a variety of reasons that bear on its all-things-considered permissibility.

2.1 Retributive Philosophy

Retributive philosophy represents one of the oldest and most influential justifications for punishment. Rooted principally in

the moral philosophy of Immanuel Kant (1996), retributivism maintains that punishment is justified because offenders deserve it. The legitimacy of punishment therefore derives not from its capacity to produce desirable social consequences but from the moral responsibility of the offender for voluntarily committing a wrongful act.

From a deontological perspective, punishment constitutes an end in itself rather than a means to achieve broader policy objectives. Individuals are regarded as rational moral agents who possess the capacity to distinguish right from wrong and are therefore accountable for their choices. When an individual knowingly violates the law, punishment becomes an expression of moral accountability rather than an instrument for producing future social benefits.

Kant's (1996) well-known argument that punishment should never be imposed merely as a means to promote public welfare captures this principle. Instead, punishment is justified because the offender has committed a crime and therefore deserves a proportionate response. The moral significance of punishment thus lies in respecting individual responsibility rather than manipulating behaviour for instrumental purposes.

An important implication of retributivism is its emphasis on proportionality. Punishment should correspond to the seriousness of the offence and the offender's degree of culpability. Excessive punishment violates justice because it exceeds moral desert, whereas insufficient punishment fails to recognise the gravity of the wrongdoing. Retribution therefore seeks to restore moral balance by ensuring that offenders receive punishment proportionate to their criminal conduct.

Nevertheless, the retributive approach has attracted sustained criticism. By concentrating primarily on the offender's culpability, it pays comparatively little attention to victims' experiences or the restoration of damaged relationships. Punishment based solely on deservedness cannot by itself exhaust the broader concept of justice.

2.2 Utilitarian Philosophy

In contrast to retributivism, utilitarian philosophy evaluates punishment according to its future consequences rather than the moral desert of offenders. Utilitarianism is a form of consequentialism, holding that the moral legitimacy of any action depends upon its capacity to produce the greatest overall social benefit. Within criminal justice, punishment is therefore justified not because offenders deserve to suffer but because punishment is expected to reduce future crime and enhance collective security.

The utilitarian justification for punishment rests upon several preventive objectives. Punishment may deter potential offenders, discourage repeat offending, incapacitate dangerous individuals, or facilitate rehabilitation. In each case, the moral value of punishment depends upon its effectiveness in promoting public welfare rather than upon any intrinsic moral requirement that offenders suffer for their past actions.

Utilitarianism recognises that punishment inevitably imposes suffering upon those subjected to criminal sanctions. However, it maintains that such suffering is justified when the overall social benefits outweigh the harms inflicted on individual offenders. Consequently, punishment is viewed as an

unfortunate but sometimes necessary instrument for achieving greater public safety and reducing future victimisation.

Despite its practical influence on modern criminal justice policy, utilitarianism also faces important philosophical objections. If punishment is justified solely by its consequences, there exists a risk that individual rights and moral accountability become subordinate to broader social objectives. Such concerns have prompted many scholars to question whether consequentialism alone can provide an adequate normative foundation for criminal justice.

2.3 Retribution and Utilitarianism: A Comparative Perspective

Their principal disagreement concerns the moral basis upon which punishment should be imposed. Retribution is fundamentally backwards-looking, evaluating punishment according to the offender's past conduct and moral responsibility. Utilitarianism is forward-looking, assessing punishment according to its anticipated contribution to future social welfare.

This distinction has significant implications for understanding justice. Retribution emphasises proportionality and moral accountability, whereas utilitarianism prioritises crime prevention and collective security. Neither perspective, however, adequately addresses the broader relational and restorative dimensions of justice, including victims' needs, community healing, reconciliation, and the reconstruction of social relationships disrupted by criminal conduct. They explain why punishment may be justified, not whether punishment alone is sufficient to realise justice. This distinction forms the central premise of the present article and provides the conceptual bridge to the subsequent discussion of theories of justice.

3. Theories of Justice

While theories of punishment seek to justify the state's authority to impose sanctions on offenders, theories of justice address a broader normative question concerning the principles by which social and legal institutions ought to respond to wrongdoing. The distinction is significant because equating punishment with justice risks reducing a complex moral ideal to a single institutional response.

Philosophical discussions of justice have produced several influential theoretical traditions, each emphasising different dimensions of fairness and legal responsibility. Although these theories occasionally overlap with theories of punishment, they pursue broader objectives than the mere infliction of penal sanctions. Among the most influential are corrective justice, distributive justice, procedural justice, and retributive justice. Together, these approaches illustrate that justice is a multidimensional concept extending beyond the punishment of offenders.

3.1 Corrective Justice

Corrective justice is primarily concerned with rectifying the injustice that one individual has wrongfully inflicted upon another. Rather than concentrating on punishment itself, corrective justice seeks to restore the normative relationship

between the wrongdoer and the victim by repairing, as far as possible, the harm resulting from the wrongful act. The theory therefore occupies a central place in private law, particularly within the law of torts and contractual liability, where remedies aim to compensate for losses rather than impose criminal sanctions.

As Ernest Weinrib (2012) argues, corrective justice establishes a correlative relationship between the party responsible for causing harm and the party who has suffered it. Liability arises because one person's wrongful conduct has disrupted the legal equality that previously existed between them, and the appropriate legal remedy seeks to restore that equality by correcting the injustice committed. The objective is not to pursue broader social goals but to address the specific relationship between the parties affected by the wrongful act.

An important feature of corrective justice is its backwards-looking orientation. The legitimacy of legal remedies derives directly from the injustice already committed rather than from their anticipated future consequences. Consequently, compensation is justified because it attempts to repair an existing wrong instead of deterring future misconduct or promoting collective welfare.

Despite its theoretical coherence, corrective justice has important limitations. Financial compensation cannot always restore losses that are emotional, psychological, or irreversible. Serious crimes involving violence, sexual assault, or homicide generate forms of harm that cannot be adequately remedied through monetary restitution alone. These limitations illustrate that correcting legal loss does not necessarily restore justice in its broader moral sense.

3.2 Distributive Justice

Distributive justice addresses the principles according to which benefits and burdens should be allocated within society (Rawls 1971; Nozick 1981). Although traditionally associated with political philosophy and the distribution of economic resources, distributive principles also influence criminal justice by shaping decisions concerning punishment, responsibility, and social fairness (Gruber 2010).

Within criminal law, distributive approaches argue that punishment should contribute to restoring moral equilibrium between offenders and victims. Punishment may be understood as a means of redistributing advantages and disadvantages that have been distorted through criminal conduct. Crime enables offenders to obtain unjust benefits while imposing corresponding harms upon victims; punishment seeks to restore fairness by correcting this imbalance. However, distributive justice extends beyond questions of sentencing. It also directs attention to the broader structural inequalities that frequently shape patterns of offending, including poverty, educational disadvantage, discrimination, and unequal access to social opportunities.

3.3 Procedural Justice

Whereas corrective and distributive justice focus primarily upon outcomes, procedural justice emphasises the fairness of the processes through which legal decisions are reached (Simmonds 1993). It is concerned not only with whether

decisions are legally correct but also with whether individuals experience the decision-making process as impartial, respectful, transparent, and consistent.

Research on procedural justice demonstrates that public confidence in legal institutions depends significantly upon perceptions of procedural fairness. Individuals are more likely to regard legal outcomes as legitimate when they believe they have been treated with dignity, allowed meaningful participation, and judged through impartial procedures, even where the outcome is unfavourable.

Within criminal justice systems, procedural justice therefore extends beyond formal legal rules to include the conduct of police officers, prosecutors, judges, and correctional authorities. Procedural justice contributes to both legal legitimacy and voluntary compliance with the law.

3.4 Retributive Justice

Retributive justice represents the theory most closely associated with traditional criminal justice systems. It maintains that justice requires offenders to receive punishment proportionate to the seriousness of their crimes because punishment expresses society's moral condemnation of wrongful conduct.

Grounded in deontological philosophy, retributive justice assumes that individuals possess moral agency and are therefore accountable for their voluntary actions. Punishment is justified because offenders deserve it, not because punishment necessarily produces beneficial consequences. Justice is achieved when punishment appropriately reflects the gravity of the offence and the offender's level of responsibility.

This understanding has profoundly influenced modern criminal justice institutions, where sentencing principles frequently rely upon proportionality, culpability, and deserved punishment. Nevertheless, critics argue that a justice system focused exclusively upon punishment risks neglecting the interests of victims, communities, and the broader social consequences of crime.

Comparative Discussion: Justice Beyond Punishment

The foregoing discussion demonstrates that theories of justice pursue a considerably broader normative agenda than theories of punishment. Corrective justice seeks to repair wrongful losses, distributive justice addresses fairness in the allocation of social burdens and benefits, procedural justice safeguards the legitimacy of legal decision-making, and retributive justice focuses upon proportional punishment. Although punishment appears within some of these theories, it is neither their sole objective nor their defining characteristic.

This distinction is fundamental to the argument advanced in this article. Whereas theories of punishment are principally concerned with justifying why and how offenders should be sanctioned, theories of justice examine the wider moral principles governing the restoration of fairness, equality, accountability, and social order. Justice therefore cannot be reduced to punishment alone. Rather, punishment represents only one possible instrument through which justice may, under certain circumstances, be pursued.

4. Do Theories of Punishment Amount to Theories of Justice?

The relationship between punishment and justice has traditionally been treated as self-evident within criminal justice systems. Judicial decisions imposing punishment are commonly described as the "delivery of justice," thereby creating the impression that punishment and justice are conceptually synonymous. Such an understanding has profoundly influenced legal institutions, sentencing practices, and public perceptions of criminal justice. Yet this assumption deserves careful philosophical scrutiny. The mere imposition of punishment does not necessarily demonstrate that justice has been achieved, nor does the absence of punishment invariably signify the absence of justice. This article argues that theories of punishment and theories of justice are conceptually related but normatively distinct.

Theories of punishment primarily seek to justify the state's authority to impose sanctions upon offenders. Whether grounded in retributive deservedness, utilitarian crime prevention, rehabilitation, incapacitation, or compensation, each theory attempts to explain why punishment is morally or legally justified. Punishment represents only one possible mechanism through which justice may be pursued rather than the defining characteristic of justice itself.

This distinction becomes particularly significant when the objectives of criminal justice are examined more closely. Retribution seeks proportional punishment, deterrence seeks crime prevention, incapacitation seeks public protection, rehabilitation seeks behavioural reform, and compensation seeks material restoration. Although these objectives differ substantially, they share one common feature: each is primarily concerned with determining an appropriate response to offenders. None, however, fully addresses the broader relational consequences of crime, including the experiences of victims, the disruption of community relationships, or the restoration of social trust. As a result, punishment-centred approaches often leave unresolved many of the harms that criminal conduct produces.

Justice, by contrast, cannot be reduced to the administration of legal sanctions. Crime is not merely a violation of statutory rules but also a disruption of interpersonal relationships, community trust, and social equilibrium. A justice system concerned solely with determining appropriate punishment risks overlooking these wider consequences. Moreover, punishment alone cannot reasonably be regarded as the complete realisation of justice.

This conceptual distinction also highlights an important limitation of conventional criminal justice systems. Contemporary legal institutions frequently measure justice according to procedural correctness and proportional sentencing. While these principles remain indispensable for safeguarding legality and individual rights, they do not necessarily restore the social relationships disrupted by crime. The legal process may conclude with a conviction and sentence, yet victims often remain dissatisfied, offenders inadequately reintegrated, and communities excluded from the process of resolving conflict. Justice, understood in its broader moral

sense, therefore extends beyond judicial verdicts to include the restoration of social relationships and public confidence.

A further limitation of punishment-centred approaches lies in their relatively narrow understanding of criminal responsibility. Retributive and utilitarian theories generally focus upon the criminal act and the individual offender. Although such emphasis is essential for determining legal liability, it often pays insufficient attention to the wider structural and social conditions within which crime occurs. Factors such as poverty, educational exclusion, unemployment, social marginalisation, and unequal access to opportunities frequently shape patterns of criminal behaviour. Recognising these conditions does not diminish individual responsibility; rather, it broadens the conception of justice by acknowledging that sustainable crime prevention requires attention not only to offenders but also to the structural circumstances that contribute to offending.

The foregoing analysis demonstrates that punishment constitutes a necessary component of many criminal justice systems but not an exhaustive account of justice itself. Justice possesses a broader normative scope because it seeks not only to respond to wrongdoing but also to restore fairness, repair harm, reaffirm rights, and rebuild the social relationships disrupted by criminal conduct. Whereas theories of punishment ask "Why should offenders be punished?", theories of justice ask the more comprehensive question: "How should society respond to wrongdoing in a manner that restores fairness and legitimacy?" These are related but fundamentally different inquiries.

Recognising this distinction has important implications for contemporary criminal justice theory. If punishment is viewed as synonymous with justice, criminal justice institutions risk evaluating success exclusively in terms of convictions and sentencing outcomes. Conversely, if justice is understood as a broader moral and social ideal, then criminal justice policy must also consider victims' experiences, offender accountability beyond incarceration, community participation, and the long-term restoration of social harmony. Theories of punishment therefore contribute to justice, but they do not, in themselves, amount to theories of justice.

This conclusion provides the theoretical foundation for examining the two paradigms that have most profoundly influenced contemporary criminal justice thought. The following sections compare the retributive and restorative models of justice to determine which framework more adequately addresses the broader objectives of justice identified in this article.

5. Retributive Justice: Moral Desert and the Limits of Punishment

Retributive justice has historically served as the dominant philosophical foundation of modern criminal justice systems. From sentencing practices to theories of legal responsibility, the retributive paradigm continues to shape the manner in which criminal wrongdoing is understood and addressed. At its core, retributive justice maintains that offenders ought to be punished because they deserve punishment for voluntarily committing wrongful acts. Justice is therefore realised through the

proportionate imposition of sanctions corresponding to the seriousness of the offence.

Unlike consequentialist approaches, retributive justice does not justify punishment by reference to its future social utility. Its central concern is the moral culpability of the offender. Crime is regarded as a voluntary violation of legal and moral norms, and punishment is justified because it restores the moral balance disrupted by the wrongful act. In this respect, retributive justice is fundamentally backwards-looking, focusing upon past conduct rather than anticipated future consequences.

The philosophical foundations of retributivism are closely associated with Immanuel Kant's deontological ethics (Kant 1996). Kant argues that punishment should never be imposed merely as a means of promoting social welfare or deterring future crime; rather, it is justified because the offender has committed an offence and therefore deserves punishment. Individuals are treated as rational moral agents capable of making autonomous choices and must therefore bear responsibility for those choices. Punishment, in this framework, is an expression of respect for individual moral agency rather than an instrument of social engineering.

This understanding has significantly influenced modern theories of criminal responsibility. Retribution emphasises three interrelated principles: moral culpability, proportionality, and individual accountability. Moral culpability requires that punishment be imposed only upon those who have voluntarily committed wrongful acts. Proportionality requires that punishment correspond to the gravity of the offence. Individual accountability recognises offenders as autonomous moral agents who are responsible for the consequences of their actions. Together, these principles provide an internally coherent moral justification for punishment while safeguarding against arbitrary or excessive penal sanctions.

A further strength of retributive justice lies in its rejection of purely instrumental reasoning. By refusing to justify punishment solely in terms of deterrence or public welfare, retributivism places important limits upon state power. If punishment is deserved rather than merely useful, governments cannot legitimately punish innocent individuals or impose disproportionate sanctions simply because doing so might produce desirable social outcomes. In this respect, retributive theory performs an important constitutional function by affirming that punishment must remain closely connected to individual responsibility and legal guilt.

Despite these strengths, the retributive paradigm has attracted sustained criticism within contemporary criminal justice scholarship. By concentrating primarily upon determining the punishment deserved by offenders, retributive justice often pays comparatively little attention to victims' needs or the wider social consequences of crime. Once a sentence has been imposed, the justice process is generally regarded as complete, even though many of the harms created by criminal conduct remain unresolved.

This limitation becomes particularly evident when crime is understood as more than a violation of legal rules. Criminal acts frequently produce psychological trauma, social distrust, broken relationships, and long-term community disruption. Although

proportional punishment may acknowledge the seriousness of the offence, it does not necessarily repair these harms. Victims may continue to experience insecurity or emotional suffering despite the successful prosecution of offenders, while communities may remain fractured by the consequences of criminal conduct. Punishment therefore addresses only one dimension of the injustice created by crime.

The retributive emphasis upon proportional punishment also raises broader philosophical questions concerning the relationship between punishment and justice. If justice is understood exclusively in terms of giving offenders what they deserve, then the experiences of victims and communities risk becoming secondary considerations.

Psychological research further illustrates the complexity of public responses to crime. As Darley and Pittman (2003) argue, people's perceptions of justice vary according to the circumstances surrounding criminal conduct. Deliberate wrongdoing tends to generate strong retributive impulses and demands for punishment, whereas negligence often produces preferences for compensation or restitution rather than severe penal sanctions. These findings suggest that public intuitions about justice are more nuanced than a purely retributive framework might imply and that different forms of wrongdoing may require different forms of moral response.

Accordingly, the principal limitation of retributive justice is not that punishment lacks moral significance, but that punishment alone cannot exhaust the meaning of justice. Retribution succeeds in affirming accountability, proportionality, and respect for the rule of law. For this reason, contemporary criminal justice scholarship has increasingly explored restorative approaches that seek to complement rather than simply replace retributive principles. Rather than asking only what punishment offenders deserve, restorative justice asks how the harms resulting from crime may be repaired through dialogue, accountability, and social restoration. Examining this alternative paradigm is therefore essential to understanding whether justice can be realised through means extending beyond punishment alone.

6. Restorative Justice: Reconstructing Justice Beyond Punishment

Restorative justice has emerged as one of the most influential developments in contemporary criminal justice theory, offering an alternative normative framework to the traditional retributive model. Rather than treating crime primarily as a violation of the law requiring state-imposed punishment, restorative justice conceptualises crime as a violation of people, relationships, and communities. This shift in perspective fundamentally alters both the objectives of criminal justice and the meaning of justice itself. Whereas retributive justice asks what punishment offenders deserve, restorative justice asks how the harms resulting from crime can be repaired and how those affected by wrongdoing may be restored.

Although restorative justice gained significant academic and policy attention during the late twentieth century, particularly following developments in victim-offender mediation and the influence of truth and reconciliation processes, its underlying principles are not entirely new. As John Braithwaite (1999) and

other scholars (Van Ness & Strong 2010; Walker 2006) have argued, practices resembling restorative justice have existed within many Indigenous and community-based traditions long before the emergence of modern state-centred criminal justice systems. Contemporary restorative justice therefore represents not the invention of an entirely new philosophy but the revival and adaptation of longstanding practices that emphasised dialogue, accountability, reconciliation, and community participation.

The growing interest in restorative justice reflects widespread dissatisfaction with the limitations of conventional criminal justice systems. Although retributive punishment remains indispensable for maintaining legal order and affirming accountability, many scholars argue that punishment alone often fails to address the broader consequences of criminal wrongdoing. Victims frequently remain dissatisfied despite successful prosecutions, offenders may complete their sentences without accepting meaningful responsibility for repairing the harm they caused, and communities affected by crime are commonly excluded from formal legal processes. Restorative justice seeks to respond to these limitations by expanding the objectives of criminal justice beyond punishment toward healing, participation, and social restoration (Marshall 1999).

A defining characteristic of restorative justice is its recognition that crime creates multiple forms of harm extending beyond the breach of legal rules. Criminal conduct frequently results in emotional trauma, damaged interpersonal relationships, diminished trust, and community disruption. Consequently, justice requires more than determining legal guilt or imposing proportionate punishment. It also requires acknowledging victims' experiences, encouraging offenders to accept responsibility for the consequences of their actions, and facilitating constructive processes through which relationships may be repaired wherever possible.

This broader understanding of justice distinguishes restorative justice from traditional punishment-centred approaches. Restorative justice seeks to create conditions under which those directly affected by crime may actively participate in determining how the resulting harm should be addressed. Justice therefore becomes a collaborative process involving victims, offenders, and affected communities rather than an exclusively state-controlled legal procedure. In this respect, restorative justice introduces a more participatory and relational conception of justice than that offered by conventional criminal proceedings.

Howard Zehr's (2015) influential formulation of restorative justice provides an important theoretical foundation for this perspective. According to Zehr (2015; Zehr & Toews 2004), restorative justice rests upon three interrelated principles. First, crime should be understood primarily as harm inflicted upon individuals and relationships rather than merely as a breach of legal rules. Second, such harms create obligations that require offenders to acknowledge responsibility and contribute to repairing the consequences of their conduct. Third, restorative justice seeks to heal and put right the wrongs. These principles collectively reorient criminal justice away from punishment as

an end in itself and toward the restoration of social relationships disrupted by criminal conduct.

An important strength of restorative justice lies in its emphasis on accountability rather than passive punishment. Accountability within the restorative framework requires offenders to recognise the human consequences of their actions and, where appropriate, participate in practical efforts to repair the harm they have caused. Such efforts may include apologies, restitution, community service, negotiated agreements, or participation in restorative conferences. Unlike purely punitive sanctions, these responses encourage offenders to engage directly with the consequences of their conduct while simultaneously recognising victims' needs and perspectives.

Restorative justice also provides greater recognition of victims than traditional criminal justice systems. Within many adversarial legal systems, victims primarily function as witnesses whose role concludes once legal proceedings have ended. Restorative processes instead acknowledge victims as central participants whose experiences, concerns, and expectations should shape the justice process. This participatory approach may contribute to greater satisfaction, increased perceptions of procedural fairness, and improved opportunities for emotional closure, although such outcomes cannot be guaranteed in every case.

Despite its significant normative contributions, restorative justice should not be regarded as a universal solution to every form of criminal wrongdoing. As recognised within the restorative justice literature itself, restorative processes depend upon several practical conditions that may not always exist. Effective participation generally requires voluntary engagement, offender acceptance of responsibility, skilled facilitation, and an environment in which participants can communicate safely and respectfully. These conditions may be difficult to achieve in cases involving severe violence, ongoing power imbalances, organised crime, or situations where victims do not wish to participate. Moreover, restorative justice may function differently across cultural and institutional contexts, making it inappropriate to treat any single restorative model as universally applicable.

These limitations, however, should not obscure the theory's principal contribution. Restorative justice does not deny the importance of accountability or the rule of law; rather, it broadens the meaning of justice by recognising that criminal wrongdoing generates harms extending beyond legal guilt. Justice therefore involves not only responding to offenders but also repairing relationships, restoring dignity, strengthening communities, and reaffirming the humanity of all those affected by crime.

Accordingly, restorative justice offers a significantly broader normative framework than theories of punishment alone. Whereas punishment-centred approaches focus primarily on determining appropriate sanctions for offenders, restorative justice seeks to restore the moral and social relationships disrupted by criminal behaviour. It is precisely this broader understanding of justice that supports the central argument advanced throughout this article: punishment may contribute to justice, but justice cannot be reduced to punishment.

7. Restorative Justice and Punishment: Rethinking Rather than Rejecting Penal Sanctions

A persistent misconception within criminal justice scholarship is that restorative justice seeks to replace punishment with forgiveness, reconciliation, or informal dispute resolution. Such a characterisation oversimplifies restorative theory and overlooks the significant body of scholarship demonstrating that restorative justice does not reject offender accountability. Rather, it challenges the assumption that accountability must necessarily be expressed through conventional penal sanctions alone. The central question is therefore not whether offenders should be held accountable, but how accountability can most effectively contribute to the realisation of justice.

This distinction is particularly important because critics frequently portray restorative justice as incompatible with punishment. Such criticisms assume that punishment consists exclusively of imprisonment, fines, or other coercive sanctions imposed by the state. Restorative justice, however, adopts a broader understanding of accountability by recognising that obligations arising from criminal wrongdoing may take forms other than custodial punishment. Restitution, apology, community service, negotiated reparation, participation in restorative conferences, and other forms of active responsibility may also constitute meaningful responses to criminal conduct. Consequently, restorative justice should not be interpreted as an abolitionist philosophy but rather as a normative framework that expands the range of legitimate responses available within criminal justice systems.

Kathleen Daly's (2002) analysis provides an important clarification of this relationship. Scholars argue that restorative justice should not be understood as an alternative to punishment itself but as an alternative form of punishment. The significance of this distinction lies in recognising that punishment need not always involve the intentional infliction of suffering through imprisonment or other coercive sanctions. Instead, restorative processes may impose meaningful obligations upon offenders by requiring them to acknowledge responsibility, participate in repairing harm, compensate victims, undertake community service, or fulfil agreements reached through restorative dialogue. These obligations may be demanding and burdensome, yet they remain directed toward repairing harm rather than merely inflicting pain.

This broader conception of punishment challenges conventional assumptions within criminal justice theory. Traditional retributive approaches generally identify punishment with the state's coercive authority to impose proportionate suffering in response to criminal wrongdoing. Restorative justice, by contrast, redefines punishment in relational terms. Accountability is measured not only by the severity of sanctions but also by the offender's willingness to confront the consequences of the offence, engage with those affected, and contribute actively to repairing the resulting harm. From this perspective, the legitimacy of punishment derives not solely from proportionality but also from its capacity to restore damaged relationships and reaffirm the dignity of those affected by crime.

Charles Barton (1999) similarly argues that the distinctive contribution of restorative justice lies not in abandoning

punishment but in empowering those most directly affected by criminal wrongdoing. Conventional criminal proceedings often transfer conflict from victims and communities to legal institutions, leaving those most affected with limited opportunities to participate meaningfully in determining how justice should be achieved. Restorative justice seeks to correct this imbalance by involving victims, offenders, and communities in the justice process. Accountability therefore becomes a shared social responsibility rather than an exclusively state-administered exercise of penal authority.

An important implication of this perspective is that punishment and restoration need not be regarded as mutually exclusive concepts. In many instances, restorative processes may complement rather than replace conventional criminal sanctions. Serious offences may continue to require imprisonment to protect the public, affirm the rule of law, and express societal condemnation of criminal conduct. However, imprisonment alone rarely addresses victims' emotional needs, encourages meaningful offender accountability, or facilitates reconciliation where such outcomes are appropriate. Restorative interventions may therefore operate alongside traditional sentencing by addressing dimensions of justice that punitive sanctions alone cannot adequately resolve.

Nevertheless, restorative justice also faces practical limitations that should not be overlooked. Effective restorative processes depend upon voluntary participation, offender acceptance of responsibility, competent facilitation, and a safe environment for dialogue. These conditions are not always attainable. Cases involving severe violence, domestic abuse, organised crime, or persistent power imbalances may present significant obstacles to restorative engagement. Furthermore, some victims may prefer conventional criminal proceedings or may reasonably choose not to participate in restorative programmes. Accordingly, restorative justice should not be regarded as a universal substitute for formal criminal adjudication but as an important complementary framework capable of addressing aspects of justice often neglected within traditional systems.

The relationship between restorative justice and punishment therefore should not be understood in binary terms. Retributive and restorative approaches pursue different, though not necessarily incompatible, objectives. Retribution emphasises proportional punishment, moral responsibility, and legal accountability, whereas restorative justice emphasises repairing harm, restoring relationships, and encouraging participatory accountability. Each responds to different dimensions of criminal wrongdoing, and each contributes to distinct aspects of justice.

From this analysis emerges the central normative conclusion of this article. Punishment remains an important instrument of criminal justice, particularly in affirming responsibility and maintaining the authority of the legal system. Yet punishment alone cannot exhaust the broader moral objectives of justice. Justice requires not only that offenders answer for their wrongdoing but also that victims' harms are acknowledged, relationships are repaired where possible, and communities regain confidence in the legitimacy of legal institutions. Restorative justice broadens the concept of punishment by transforming it from an exclusively coercive response into a

process of active accountability, reparation, and social restoration. It is precisely this broader conception of justice that demonstrates why theories of punishment should not be equated with theories of justice.

8. Contemporary Debates on Punishment and Justice

The philosophical relationship between punishment and justice continues to generate significant scholarly debate within criminal justice, legal philosophy, and political theory. Classical theories of punishment remain highly influential in explaining the moral and legal justification for penal sanctions. Retributive theorists continue to defend punishment as an expression of moral responsibility and proportionality, while consequentialist approaches justify punishment primarily through its preventive and social utility. These traditions have shaped modern criminal justice institutions and continue to influence sentencing philosophy across many jurisdictions. Nevertheless, contemporary scholarship increasingly questions whether punishment alone can satisfy the broader normative objectives of justice, particularly in societies characterised by social inequality, cultural diversity, and growing recognition of victims' rights.

Recent scholarship has expanded this debate by examining justice through relational, participatory, and restorative perspectives. Rather than viewing crime solely as a violation of legal rules, contemporary restorative justice scholars emphasise that criminal wrongdoing also disrupts interpersonal relationships, community trust, and social cohesion. Consequently, justice requires responses that extend beyond the imposition of punishment to include repairing harm, acknowledging victims' experiences, promoting offender accountability, and restoring relationships wherever possible. This broader understanding complements, rather than necessarily rejects, traditional punishment theories and has become increasingly influential within contemporary criminal justice policy.

Another important development concerns the growing emphasis on victim-centred justice. Recent literature argues that conventional criminal proceedings often marginalise victims by assigning them a limited procedural role, whereas restorative approaches provide greater opportunities for participation, dialogue, and acknowledgement of harm. Although empirical findings remain mixed and outcomes vary across legal and cultural contexts, many studies report that carefully designed restorative programmes can improve perceptions of procedural fairness, increase victim satisfaction, and encourage offenders to accept greater personal responsibility. At the same time, scholars caution that restorative justice should not be romanticised or treated as universally applicable, particularly in cases involving serious violence, significant power imbalances, or unwilling participants.

Contemporary research has also drawn attention to the institutional dimensions of restorative justice. Increasingly, scholars examine restorative practices not simply as alternatives to formal criminal proceedings but as complementary mechanisms capable of operating alongside conventional legal institutions. This "integrative" perspective recognises that retributive and restorative principles need not be mutually

exclusive. Retributive punishment continues to serve important functions in affirming legal responsibility, protecting the rule of law, and expressing public condemnation of criminal conduct, while restorative processes address dimensions of justice—such as repairing relationships, acknowledging victims' harms, and strengthening community participation—that conventional punishment often leaves unresolved.

Finally, recent scholarship has highlighted the relationship between restorative justice and broader questions of social justice. Crime is increasingly understood as occurring within complex social, economic, and political contexts shaped by inequality, exclusion, discrimination, and structural disadvantage. While such conditions do not excuse criminal conduct, they challenge purely individualistic conceptions of responsibility and encourage a more holistic understanding of justice that combines accountability with social inclusion and institutional reform. This perspective reinforces the central argument advanced in this article: theories of punishment explain why offenders may justifiably be sanctioned, whereas theories of justice encompass the wider moral, relational, and institutional objectives necessary for responding comprehensively to criminal wrongdoing.

9. CONCLUSION

This article has examined one of the central questions in contemporary criminal justice theory: Do theories of punishment amount to theories of justice? Through a critical examination of the principal theories of punishment and the major traditions of justice, it has argued that although punishment constitutes an important component of criminal justice, it should not be regarded as synonymous with justice itself. The conceptual distinction between punishment and justice is neither merely semantic nor theoretical; it has significant implications for the philosophy of criminal law, sentencing policy, and the design of criminal justice institutions.

The analysis demonstrated that the principal theories of punishment—deterrence, incapacitation, rehabilitation, retribution, and compensation—provide different normative justifications for imposing sanctions upon offenders. Each theory explains why punishment may be morally or legally justified, yet each remains primarily concerned with determining an appropriate response to criminal conduct. By contrast, theories of justice pursue broader normative objectives, including fairness, accountability, equality, restoration, and the legitimacy of legal institutions. Justice therefore extends beyond the imposition of punishment and encompasses the wider moral and social consequences of crime. A central finding of this article is that punishment is neither a necessary nor a sufficient condition for the realisation of justice. Punishment may express moral condemnation, affirm legal responsibility, and contribute to the maintenance of public order. However, criminal wrongdoing frequently produces harms that cannot be adequately addressed through punitive sanctions alone. Victims may continue to experience psychological and emotional harm, interpersonal relationships may remain fractured, and communities may suffer long-term social consequences despite the successful prosecution and

punishment of offenders. Consequently, equating punishment with justice risks overlooking important dimensions of human harm and social restoration.

The comparative analysis of retributive and restorative paradigms further reinforces this conclusion. Retributive justice provides an indispensable framework for ensuring proportionality, legal accountability, and respect for the rule of law. Nevertheless, its principal concern remains the justification of punishment according to offenders' moral desert. Restorative justice broadens this perspective by recognising crime as a violation of individuals, relationships, and communities rather than merely a breach of legal rules. Its emphasis upon repairing harm, encouraging offender accountability, recognising victims' experiences, and facilitating community participation expands the normative objectives of criminal justice beyond punishment alone. Rather than abolishing punishment, restorative justice reinterprets accountability through processes that seek to restore relationships and repair the consequences of wrongdoing.

Accordingly, this article contends that theories of punishment should be understood as components of a broader theory of justice rather than complete theories of justice in themselves. Punishment remains an important institutional response to criminal conduct, but justice requires additional commitments to restoration, participation, fairness, and the reconstruction of social relationships. This distinction provides a more comprehensive framework for understanding criminal justice and avoids reducing justice to the infliction of penal sanctions.

The argument advanced in this article also carries important implications for contemporary criminal justice policy. Criminal justice systems that evaluate success exclusively through conviction rates or sentencing severity risk neglecting the broader objectives of justice. A more comprehensive approach should integrate principles of procedural fairness, victim participation, offender accountability, and restorative practices alongside proportionate punishment. Such an approach does not undermine the authority of criminal law but strengthens its legitimacy by recognising that justice involves repairing the human and social consequences of crime as well as responding to legal wrongdoing.

Finally, this article contributes to ongoing philosophical debates concerning the relationship between punishment and justice by challenging the widespread assumption that the two concepts are conceptually identical. Recognising their distinction encourages a richer understanding of criminal justice—one that preserves the importance of punishment while acknowledging that justice ultimately encompasses broader moral, relational, and institutional values. Future research may build upon this framework by examining how restorative principles can be integrated into existing criminal justice systems, particularly in relation to serious offences, transitional justice processes, and victim-centred approaches to criminal accountability.

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