

When Should Distributive Justice Be Used in Criminal Justice?

Student's Name

Institution of Learning

### When Should Distributive Justice Be Used in Criminal Justice?

The concept of distributive justice in its pure form refers to the framework of punishment and its subsequent type of distribution, which is best depicted in the system of criminal justice. Other than that, distributive justice raises a considerable philosophical dilemma concerning the ways through which criminal liability and punishment may be distributed within the punishment system, with possible consideration of who should be punished and how much under certain circumstances. The core of distributive justice is the merger of philosophical, sociological, and psychological disciplines to determine the outcomes of a specific process and its following correlation with the expectations of a sample group. What stands out in the discourse of distributive justice is the opposite stance in relation to the justice process, which now refers to the administration of law.

With regards to unveiled notions, it is unclear how distributive justice may be utilized in the existing criminal justice system, especially reviewing the aspects of group expectations, the focus on outcomes of law administration, and the general tendency of sharing punishment across members of certain groups. Being focused more on sociological and philosophical connotations, the research on distributive justice mostly emphasizes the scaling of the intentions, outcomes, and balances between specific categories of involved individuals. Although it may be indicated that distributive justice finds no correlation with the criminal justice system because of sharp contrasts in the essence of law administration, it should be noted that distributive justice may take place in the criminal justice system through the lens of public retributions, the mere existence of the punishment institution, and the interrelation of offender and victim in terms of pleasure and pain.

### Public Requitals

First and foremost, while considering the subject of public requitals, one may underline the relevance of distributive justice in the public sphere of criminal law. The reason for the dominance of distributive justice in the public domain of discussions in relation to criminal law is the presence of ties with Aristotle times (Kuklin, 2018, p. 252). What is more, the mere essence of distributive justice in the public domain is believed to be interrelated with justice systems other than criminal ones, including corrective or retributive ones. Retribution primarily relies on distributive justice, which in turn is deemed to keep blameworthiness on scales (Kuklin, 2018, p. 300). With regards to the notions of the scales through which distributive justice may be measured, it is often speculated that the use of distributive justice as a part of the modern criminal justice system is capable of leading to disquieting outcomes.

More precisely, distributive justice frequently becomes a matter of discussion in the public domain because of the connotations of “enough suffering” and other related notions, which has detrimental implications for understanding criminal law as a whole (Kuklin, 2018, p. 300). Therefore, it is unclear how distributive justice may represent any valid consequences for the maintenance of the criminal justice system— meaning that its implementation as a part of the public requital should not be even considered. The decision to reduce one’s punishment while measuring whether one suffered enough or not enough should not be associated with the penal behavior of distributive justice (Kuklin, 2018, p. 300). Subsequently, the reductions in punishment systems should be related more to the normative considerations of criminal law, even including mercy, but not ones directly tied to the applications of distributive justice.

### Punishment Institution

Having previously identified that the theory of distributive justice relies on academic research and a subsequent framework for its application, one may say that distributive justice is located within any system of criminal law, especially considering the passages regarding the institution of punishment. In particular, some opinions on distributive justice declare its importance in the structure of the criminal justice system in terms of setting the distributive principle, which further implies practical importance in the form of guidance on criminal code and sentencing guideline drafting commissions (Robinson, 2008, p. 1). As for the most feasible approach to the execution of the distributive principle in the criminal justice system, the discrepancies in the personal liability and punishment philosophy of judges should be reviewed. More precisely, the findings of a survey among federal judges unveiled that one-fourth of judges perceived rehabilitation as an extremely vital goal of sentencing, while nearly 45 percent of the respondents rejected the importance of rehabilitation as a whole (Robinson, 2008, p. 2). Consequently, it is apparent that the existence of such discrepancies refer to the notions of distributive justice from the perspective of alternative opinions among judges.

What is more, the alternative approaches to the distributive principle are also crucial for understanding conflicts in the ways through which the criminal liability and punishment are enforced. A vital point is that most criminal codes rely upon traditional distributive principles, namely just punishment, deterrence, incapacitation, and rehabilitation (Robinson, 2008, p. 14). Since all of these principles have a unique application in criminal law, under no circumstances should the categorization be applied in relation to distributive justice. Presumably, further research on the punishment institution is mandatory to reveal more sophisticated bits of evidence based on guiding distributive principles of modern criminal codes within the criminal justice

system.

#### Offender and Victim: Pleasure and Pain

One of the most frequently speculated frameworks of understanding distributive justice in the criminal justice system is the role of criminal law, which endorses the assurance that fair outcomes of distributing pain and pleasure are accomplished. Even though distributive theory in criminal law could be accepted among penal theorists and criminal law scholars, the use of distributive justice in the criminal justice system was ignored due to the misplaced essence of distribution (Gruber, 2010, p. 6). However, a proper assessment of distributive theory in criminal law is possible only from the perspective of reviewing the transition of pain and pleasure from victim to offender.

As it is often articulated by criminal law theorists, the distributive theory of criminal law exposes the relevance of society's distributionist sentiments regarding rights, economics, and limited governments (Gruber, 2010, p. 10). Subsequently, distributive justice in criminal law may only be traced while reviewing the distributions between criminal defendants and victims. In some sense, distributive justice is best applied in the structure of the victim's approach towards the already executed criminal act by the offender, which is assessed based on the contextuality of the crime and the process of forgiving defendants, but not transitioning the pain through the system of distributive justice (Gruber, 2010, p. 73). Notwithstanding, distributive justice still finds its place in the contemporary criminal justice system, especially in cases when penal philosophy begins prevailing in court.

#### Final Remarks

Having reviewed three distinctive frameworks of utilizing distributive justice in the

criminal justice system, one may underline its importance in the broader extent of criminal codes and guidelines. The reason for counting with distributive justice is the modern prevalence of courts to utilize penal distribution approaches, which forces one to track distributive justice from the perspective of defendant/victim relations during the trial process. Since the mere concept of distributive justice best suits sociological research, it would be rational to consider the utilization of distributive justice as a feasible tool for the criminal justice system in terms of coping with punishment codes and criminal codes as a whole. Considering the notion that distributive justice was a part of criminal law since its emergence, one may point out that its applicability has become more abstract and theoretical over the last centuries. As it was found out above, public requitals often contain public debates over distributive justice, which is often discussed in aggregate with other frameworks for understanding distributive theory in criminal law.

As for the broader extent of the punishment institution, distributive justice has represented its usability in constructing criminal codes and sentencing guidelines. Subsequently, the capacity to assess the exchange of emotions between the victim and offender is possible while applying distributive justice, which in this context accounts for the allocation of merits and burdens in the criminal justice system as a whole. Lastly, the concept of distributive justice, which opposes the conventional understanding of the law administration and criminal justice system, still finds its place in criminal codes and sentencing guidelines, yet its role is unclear because of the impossibility of measurement and quantitative assessment of its capacity in the modern system of criminal justice.

## References

- Gruber, A. (2010). A Distributive Theory of Criminal Law. *William And Mary Law Review*, 52(1). Retrieved from [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1688066](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1688066)
- Kuklin, B. (2018). Public Requitals: Corrective, Retributive, and Distributive Justice. *Cleveland State Law Review*, 66. Retrieved from [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3174779](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3174779)
- Robinson, P. (2008). Distributive Principles of Criminal Law. doi: 10.1093/acprof:oso/9780195365757.001.0001

# Academic Experts

Your paper can be even better than this one.  
Get help from real experts in academic writing.

**REQUEST  
HELP**

**GET A FREE  
QUOTE**