

Legitimacy of Punishment in Relation to the Offender

Matjaž Ambrož, Ph.D., Professor, Faculty of Law, University of Ljubljana and Researcher, Institute of Criminology at the Faculty of Law in Ljubljana, Slovenia.
E-mail: matjaz.ambroz@pf.uni-lj.si

Theories on the purposes of punishment deal with only one part of the justification of legal punishment - the one that addresses functions of legal punishment in a given society. The further question is how to justify legal punishment in relation to the person who has to suffer the punishment. Is the harsh treatment of the offender an acceptable (legitimate) means of achieving social benefits such as crime prevention, and if so, why so? The author elaborates on theories of justification of punishment vis-à-vis the offender and shows that these theories share common underpinnings, despite the different names they hold. The author's hypothesis is that the vast majority of these theories are marked by a substantial gap between their speculative nature and social reality, and that they also serve other purposes besides the declared ones.

Key words: legitimacy of punishment, social contract, loyalty, fairness, human dignity, purposes of punishment, culpability

UDC: 343.8