Punishment, Liberalism, and Public Reason

Chad Flanders

Follow this and additional works at: https://scholarship.law.slu.edu/faculty

Part of the Criminal Law Commons, Criminal Procedure Commons, and the Law Enforcement and Corrections Commons
No. 2017-21

Punishment, Liberalism, and Public Reason

Chad Flanders
Saint Louis University - School of Law

Criminal Justice Ethics, vol. 36, no. 1, 2017
Punishment, Liberalism, and Public Reason

_Criminal Justice Ethics, vol. 36, no. 1, 2017_
_Saint Louis U. Legal Studies Research Paper No. 2017-21_

Chad Flanders
Saint Louis University - School of Law

**Abstract**

The article argues for a conception of the justification of punishment that is compatible with a modern, politically liberal regime. Section I deals with what some have thought are the obvious social interests society has in punishing criminals, and tries to develop those possible interests somewhat sympathetically. Section II suggests that many of those reasons are not good ones if punishment is regarded (as it should be) from the perspective of political philosophy. Social responses to bad things happening to people cannot be grounded in controversial metaphysical views about what is good for people or what people deserve, but many reasons proffered for punishment are in fact grounded in such views. This constraint, accordingly, limits what individuals can expect in terms of a societal response to crime. Section III develops the appropriate reasons for punishment in a modern, liberal regime. Here the article relies on a—largely undefended—conception of public reason as the most plausible theory of what reasons for punishment are available to liberals. Section IV offers some closing thoughts on why people might adopt a politically liberal view about punishment as their own, personal view about how they should relate to others.

**Keywords:** punishment, liberalism, public reason, crime, criminal justice

**Suggested Citation:**