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THE JURISPRUDENCE OF CRIME AND PUNISHMENT FROM PLATO TO HEGEL

MATTHEW A. PAULEY

INTRODUCTION

Focusing on some of the central challenges of today's criminal justice system in his 1987 book, *Corrections in America: Problems of the Past and the Present*, Charles W. Thomas identifies three "primary purposes of punishment": "punishment as retribution," "the utility value of punishment" as deterrence, and "the rehabilitative value of punishment." Each of these perspectives, he asserts, answers differently the central questions of penology: "What is it . . . that we seek to do or gain when we impose punishment on offenders? What goals do we (rightly or wrongly) believe that we can achieve by means of punishment?"¹

Explaining the retributivist perspective, Thomas says that it "encourages us to ignore how or if punishment may influence the future attitudes, values, beliefs, and behavior of those who are punished." Citing Kant's *Philosophy of Law*, Thomas mentions the concern of retributivists that such "a future orientation is said to carry with it the danger that we will come to think of those who are punished merely as a means to an end and not as fully responsible people whose rights we are obliged to protect." Retributivists do not look forward, so much as back—back "to the seriousness and harmfulness of the offense that has been committed and to the moral blameworthiness of the offender." Retribution, Thomas goes on, means "just desert" and "proportionality." He casts considerable doubt, however, on the confidence with which we can "create an equation that will permit us to compute each offender's just deserts in a way that will not be offensive to the basic principles of proportionality." It is with comments like these that Thomas expresses his "grave reservations about the moral or ethical as well as the practical virtues of retributivism."²

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1. Charles W. Thomas, *Corrections in America: Problems of the Past and the Present* (1987), p. 36.
 2. *Ibid.*, p. 40.

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