

Facing the Consequences

Nathan Hanna

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Abstract Many philosophers endorse deterrence justifications of legal punishment. According to these justifications, punishment is justified at least in part because it deters offenses. These justifications rely on empirical assumptions, e.g., that non-punitive enforcement can't deter or that it can't deter enough. I'll challenge these assumptions and argue that extant deterrence justifications of legal punishment fail. I begin by isolating, in a simplified form, important claims common to deterrence justifications. I then endorse an uncontroversial claim about punishment and explore its implications for enforcement. These implications undermine the simple versions of the deterrence claims. I then evaluate several modifications of the claims to see whether they can be improved upon. I argue that they can't easily be improved upon. In the process, I examine contemporary deterrence research and argue that it provides no support for deterrence justifications. I conclude by considering objections.

Keywords Punishment · Deterrence · Justification

Introduction

Consider what I'll call the Deterrence Thesis. Here's a preliminary statement of it.

D The fact that legal punishment deters is one reason why it is justified

N. Hanna (✉)
Department of English and Philosophy, Drexel University, MacAlister Hall Room 5044, Philadelphia,
PA 19104, USA
e-mail: nhanna@drexel.edu