

Conclusion

For Kant, retaliation is therefore by no means an end in itself, but a form of legal compulsion to enforce the law. The concept of a supreme power and that of a criminal justice imply each other.⁷⁵ Not only is the rule of law a necessary condition for criminal justice, but criminal justice is also a necessary condition for the rule of law. Therefore, the study of Kant is not due to a certain nostalgia, which does not promise any gain in knowledge. Rather, one finds with him many impulses for considerations that are nowadays praised as modern and original. Perhaps the controversy over

the various doctrines on the purpose of punishment is based on the fact that the concept of punishment is over-charging rather than differentiating:

Punishment is, by definition, an evil that is imposed for culpable wrongdoing. Punishment has the (communicative) meaning of rebuke. Its execution serves the purpose of prevention.

But this is not a combination theory in the usual sense, in which various set pieces are mixed together in the manner of a stew.

⁷⁵ Ripstein (Fn. 21), p. 246.

⁷⁶ Cf. Hörnle, *Tatproportionale Strafzumessung*, 1999.

⁷⁷ Hruschka, *Kant, Feuerbach und die Grundlagen des Strafrechts*, in: Paeffgen et al. (eds.), *Strafrechtswissenschaft als Analyse und Konstruktion. Festschrift für Ingeborg Puppe*, 2001, p. 17