The Emotional Aims of Punishment

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This paper offers a critical engagement with the question: what does punishment aim to achieve? Through a dialogue with sociological, psychological and criminological literature on the links between punishment, criminal justice and emotions, the paper argues that the main role of punishment in society is emotional. That is, it is desired and driven by a set of feelings, anxieties and insecurities. We discuss how this affective nature of punishment carries significant implications for scholarship on punishment; namely we show (1) that the primary subjects of punishment are the punisher and those in whose name they punish, rather than the punished; (2) that the aim of punishment is predominantly ideological, rather than deontological or consequentialist; and (3) that punishment has a symbiotic relationship with violence, so that one feeds into the other. The latter part of the paper explores these implications, and then concludes by proposing that a criminal justice system that sincerely aims to guard society against violence must be one geared at making punishment increasingly unnecessary.

Introduction

Emotions are at the heart of criminal law and justice. Every stage of the justice process involves the expression and performance of a range of complex feelings and affective reactions and, emotions are, as we argue, crucial to understanding the social phenomenon of punishment, including its lived experience in punitive institutions as well as its political, media and public appeal in contemporary societies. In this chapter we wish to position emotions within the broader socio-legal discussion on the aims of punishment and suggest that the social objectives of punishment ought to be understood through an affective lens. Specifically, we consider what the social phenomenon of punishment, and the institutions attached to it, wish to achieve, and explore where and how emotions operate to achieve the objectives ascribed to punishment.

We start our discussion with a brief comment on emotions as conceptual tools. Though tricky and difficult to define, we argue that emotions ought to be recognized as critical intellectual resources for examination of the function and experience of punishment. This is because the motivations as well as the justifications ascribed to punishment respond to a set of anxieties, fears and insecurities that are common and increasingly more pervasive in modern societies. We then go on to discuss how extant research in criminology and its affiliate disciplines have operationalised

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the concept of emotions before putting forward our own approach on the emotional utility of punishment. We consider the work of Durkheim, among others, and unpack our perspective on the role of not only punishment but also of punitiveness in society, the latter being the social, political and affective attitudes that drive the urge to punish more and more harshly. We argue that the proliferation of a set of insecurities as well as a broader sense of alienation and social fragmentation work to reinforce a desire for tough and harsh penalties and drive punitiveness within and beyond criminal justice institutions. Doing so, we say, offers a quick and easy, though illusory, sense of solidarity against criminalised others in an otherwise unstable and isolationist world. These same emotions and motives work to justify and create the illusion that punishment is unavoidable, helpful and necessary. In other words, these affective reactions work in justifying and normalising punishment's violence.

The second part of the paper elaborates on the emotional dimension of punishment as concept, social phenomenon and institutional practice, focusing on the link between punishment and hostility. The chapter concludes with the suggestion that, by acknowledging and taking seriously the affective nature of punishment, we can shed light onto some of the most concerning implications of our contemporary reliance on punitive practices.

Revisiting the relation between punishment and emotions

Although contemporary criminological scholarship has made, in some respects at least, significant efforts to address the emotional dimension of penal practices, emotions have traditionally been mostly absent from many of the main studies of punishment. With the notable exception of a few scholars in the area,[1] an understanding of emotions was usually seen as secondary at best to punishment scholarship.[2] Much of the predominantly emotionless discussion in the field looked – and to a large extent continues to look – at punishment from the perspective of its definition and justifications, which in turn are presented as largely derived from and reliant on legal norms and philosophical rationales. As a result, punishment is presented as a predominantly 'rational' and pragmatic endeavour, mainly concerned with an examination of how to adequately respond to crime, and wrongdoing more broadly. This way of thinking about punishment, especially in its relation to criminal law, stems from a legal and philosophical normative approach that has its intellectual origins in Enlightenment thinking, in the works of

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[1] See Durkheim 1893 [2014]; Braithwaite 1989; Douglas 1993; Garland 2001; De Haan and Loader 2002; Karstedt 2002; Karstedt et al 2011.
[2] See Bagaric 2001; Dolinko 1997; Matsueda et al 2006.

scholars such as Immanuel Kant, G. W. F. Hegel and Jeremy Bentham.[3] Much of the philosophical and legal literature on punishment and criminal justice has tended to follow a similar rationalist logic, presenting the main issues concerning the nature of punishment, and even the role of punishment in society, in terms of the normative function that it is supposed to perform, for instance by rehearsing debates about retributive and consequentialist justifications.[4] Although many of these discussions are sophisticated and often insightful, they arguably neglect one of the most essential aspects of our penal practices and institutions, without which the question of why we punish cannot be properly answered.

Similarly, criminology has until recently – and, in certain circles, until now – cast itself as a positivist discipline that prioritised rational choice models to pursue its 'objectivist' projects. Possibly the result of a close relation with legal and official conceptions of crime and criminal justice, and of a narrower focus on crime prevention, this rationalist, sterile criminology[5] has been challenged in recent times,[6] but its legacy still impacts much of criminological thinking and research on criminal justice. To some extent, this impact is evidenced by how much of sociological criminology still largely pursues an 'emotion-free framework' in its engagement with punishment, as it privileges structuralist critiques of penal practices and institutions, placing the social function of punishment within broader structures of control, regulation, exclusion and socio-economic inequality.[7] Such analyses also mostly neglect the emotionally mediated dimension of punishment's exclusionary and exploitative character, overlooking or downplaying the extent to which cultural-structural penal practices rely on expressive and repressive forces driven and conditioned by feelings such as fear, anger, guilt or frustration. These sociological narratives, although more nuanced, have also consistently maintained that punishment has a predominantly rational social-functional basis, so that punishment's social function in controlling, marginalising and excluding particular individuals and populations has been presented, even by its critics, as endowed with a rationalist functionalism[8] that unavoidably links punishment to notions of utility – that is, to the idea that punishment has a social function that must be understood, and criticised, on rational grounds.

The idea that punishment serves, or that it can serve, some clear, quantifiable or objective aim or function in society evidences how, conceptually and theoretically speaking at least,

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[3] On an elaborate discussion of this tradition, see Norrie 1991; Norrie 2014.
[4] See e.g. Boonin 2019; Canton 2017.
[5] On a critical discussion of the rationalism within criminology Carvalho and Chamberlen 2016; Karstedt 2011.
[6] See Gadd and Jefferson 2007; Jacobsen and Walklate 2016, 2019.
[7] See Rusche and Kirchheimer 1939; Melossi and Pavarini 1981; Wacquant 2009.
[8] Garland 1990.

penology largely occupies a relatively narrow field, drawing from a few overly rehearsed 'grand narratives'[9] and thus also inevitably side-lining other perspectives that are nevertheless indispensable to a concrete engagement with issues of punishment, justice and social control. The main argument in this paper is that a fuller, more nuanced and critical examination of the aims of punishment necessitates an engagement with its emotional dimension, and that this is only feasible if it includes a serious commitment to trans-disciplinarity. Given the complexity involved in unpacking the concept of emotions, this engagement should not shy away from studies of emotions and affect discussed in both the 'hard' sciences and in the humanities, without however relinquishing its commitment to remaining critical and reflexive.

Such commitment also poses an additional challenge. A critical examination of punishment that places a thick conceptualisation of emotions at its centre must arguably move beyond the confines of the institutional penal framework of the criminal justice system, and recognise that punishment is a broader socio-political phenomenon whose discourse and logics are deeply embedded within broader social dynamics and linked to other institutional contexts.[10] In most societies, punitive practices continue to flourish with regards to children at home and at school; we punish, police and discipline each other in intimate relations and in the workplace, and apply penalties and disciplinary measures in many areas of social life, ranging from practices related to healthcare and welfare provision, to perhaps less serious but equally symbolic penalties such as those applied in plagiarism committees in colleges and universities.

These broader societal manifestations of punitive logics constitute affective moments and experiences which mirror, borrow from and reinforce the normative and symbolic framework of punishment, and are thus indispensable to a comprehensive understanding of its social role. But before we can appreciate this problematic pervasiveness of punitive sentiments and practices in our social lives, it is important to briefly consider how emotions should be conceptualised.

What Are Emotions?

As previously mentioned, the traditional distinction in Western philosophy and thought more broadly has largely relegated emotions to a peripheral position. And, whenever emotions were discussed instead of simply ignored by scholars, they tended to be given an inferior, often negative role in thinking and in human relations, thus establishing a categorial hierarchy between

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[9] Bosworth and Kaufman 2013.
[10] For a detailed discussion on a conceptualisation of punitiveness as a broader socio-political phenomenon, see Carvalho et al 2020.

reason and emotion. According to Solomon, prior to the twentieth century, philosophy's general approach toward emotions can be summarized through the metaphor of master and slave.[11] In much of this history, emotions are analysed as more primitive, less intelligent, and often more dangerous than reason, and the conclusion often drawn in such analyses is that the former ought to be controlled and restrained by the latter. There were, of course, exceptions to this trend. For example, Hobbes offers an account of the relation between reason and passions which is more nuanced than what is often recognised,[12] while Hume famously proclaimed that "reason is, and ought to be, the slave of emotions"[13]—even though the legacy of Hume's work remained largely a celebration of reason.

However, more recently, lively philosophical discussion on emotions has revived. In the twentieth century some important philosophical questions were raised, including investigations into the question of what emotions are, as well as reflections around what orientation or approach one should take in conceptualizing emotions.[14] Other enquiries focused on the relation between emotions and feeling, and considered how bodily and affective sensations relate to the cognition, value, and context of emotions.[15] Similarly, the relation among emotions, rationality, and ethics raised questions about the rationality of emotions, and about how ethics are affected by emotions.[16] Philosophical debates also considered the lived experience of emotions, so as to problematize how much cognition and sociocultural learning are required to attain the specific feelings that we identify with certain emotions and social situations.[17]

The social and cultural context of emotions has also been subject to examination in the history of emotions, which as a developing subfield came to challenge the notion that emotions are universal, purely individually made, and unchangeable.[18] The history of emotions has also made an important contribution to understanding the political and relational dimension of emotions. For example, Bourke has argued that through a historical "aesthesiology," or "the knowledge of the history of bodily and emotional reactions to the world," we can observe how emotions are fundamentally concerned with power relations.[19] Considerable attention has also been given to emotions within the 'hard' sciences. Particularly, as neurology developed, the traditional notion of a contrast or categorical distinction between rationality and emotions was scientifically challenged.

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[11] Solomon 2010.
[12] On a discussion of Hobbes's account of punishment, see Carvalho 2017.
[13] Hume 1888 [1978].
[14] Goldie 2010.
[15] Mulligan 2010.
[16] Neu 2010.
[17] Solomon 2010.
[18] See Reddy 2001; Bourke 2003; Stearns 2008; Rosenwein 2010.
[19] Bourke 2003: 111.

It is now widely recognized by biologists, neurologists, and psychologists that rational decision making relies on a combination of work between cognitions that denote available options, and emotions that provide a person with a sense of the utility represented by these options.[20] As Turner explains, "one cannot maximise utility without the ability to load options with affect; and this loading can only occur by connecting the prefrontal cortex with the subcortical areas of the brain generating emotions."[21] The now-accepted biological notion that all cognition and reasoning are emotionally constructed (to varying degrees), otherwise they would not arise or have meaning, has significant implications for philosophical, historical, and sociological analyses on various institutional and cultural rationales and practices, including punishment.

More specifically, in the past forty or so years considerable sociological attention to emotions contributed to a wide range of research that is particularly relevant to scholars of crime and punishment.[22] Generally, it can be said that emotions have been sociologically explained within seven key paradigms: (1) biological approaches, (2) symbolic interactionism, (3) dramaturgical theory, (4) ritual theory, (5) power-related theorizing, (6) stratification, and (7) exchange theories.[23] But despite the acceleration of research in this area, one of the biggest challenges faced by researchers from a range of disciplines is that of establishing a definition of emotions. This definitional issue exists mainly because emotion is a fluid concept that operates on different levels. As Turner explains, emotions operate on a "biological and neurological, behavioural, cultural, structural and situational [level] and depending upon which aspects of emotions are relevant to a researcher, a somewhat different definition will emerge."[24]

This has led scholars[25] to suggest that the study of emotions necessitates a multi-disciplinary, or even a trans-disciplinary approach, so that a more holistic conceptual understanding can be pursued. From this perspective, a phenomenological approach that intersects the psychic, biological, social, and cultural dimensions of lived experiences is arguably more suitably positioned to address the complexity of emotions and their impact in the makeup of social life and institutions. Similarly, a sociological understanding of emotions must consider psychoanalytic insights as well as a cultural account of emotions; failure to do this, Craib argues, could end up limiting emotions to mere sociohistorical constructions, or allowing them to be rationalized into ideas.[26] Instead, Craib suggests that a sociological account of emotions should consider them as

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[20] Damasio 1994; Turner 2009.
[21] Turner 2009: 343.
[22] Examples include Hochschild 1983; Turner 2007; Collins 2008.
[23] Turner 2009.
[24] Turner 2009: 341.
[25] See e.g. Craib 1995; Williams and Bendelow 1998; Vogler 2001; Ahmed 2004; Hemmings 2005; Bendelow 2009.
[26] Craib 1995: 151.

"necessarily contradictory"[27] experiences that inform different forms of "emotion work".[28] This perspective invites us to see emotions as shared entities that cannot be simply observed as discrete, individualised feelings isolated from those who express and those who witness them, thus raising interesting questions about the conduct of criminological research on the emotions of punishment.

Perhaps one way of dealing with this complexity is to follow Sarbin's advice and study emotional life as a form of "narrative plot" where emotional states are roles we perform both to ourselves and to others.[29] These roles are embodied, and their bodily manifestation is what makes emotions 'real' and actualised. Emotions therefore cannot be understood without an appreciation of both their social and their embodied qualities. For this reason, deconstructing deeply complex, different, and 'dangerous' emotions, which prevail in experiences such as the practice or the suffering of punishment, requires attentiveness to the close relation among social structures, emotions, and bodies. Following feminist and psychosocial approaches in criminology[30], it is possible to conceptualize emotions as collectively experienced, communicated, and constructed under pressure and in negotiation with one's lived environment, and to see emotions as sources of active subjectivity and agency[31] that form the foundation of one's engagement with the world.

Emotions in recent scholarship on crime and punishment

Although it is still fair to say that criminology remains significantly influenced by its positivist origins and strands, the past twenty or so years have seen a flourishing of interest on emotions in criminological scholarship, which was in many ways connected to the broader 'affective turn' in the social sciences and humanities that has increasingly gained prominence since the 2000s.[32] The impact of psychosocial approaches, in particular, has been crucial in positioning emotions at the core of a range of studies, including theorisations of punishment, histories of penality, and empirical research into the experience and effects of imprisonment, among others.[33]

This scholarly turn to emotions was also driven by developments in criminal justice discourse and systems, especially by the increase in the space and relevance given to emotional images and language in public debates on criminal justice practice observed in the past thirty

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[27] Craib 1995: 155.
[28] Hochschild 1983.
[29] Sarbin 2001: 217.
[30] See e.g. Gelsthorpe 2007; Phillips and Earle 2010; Chamberlen 2016, 2018.
[31] Ferrell et al 2004.
[32] Clough et al 2007; Hoggett and Thompson 2012.
[33] See e.g. Gadd and Jefferson 2007; Pratt et al 2005; Liebling and Maruna 2005; Gelsthorpe 2007; van Marle and Maruna 2010; Chamberlen 2018.

years.[34] Since the late 1990s, rationalistic perspectives on law and justice were abruptly side-lined, and as Laster and O'Malley argue, our contemporary criminal justice environment underwent a 're-emotionalisation' process where blaming and the ascription of responsibility came to be expressed with clear emotive undertones.[35] This process tended to focus on negative emotions such as fear, anger or more targeted feelings of hostility towards the offender, but this was not always the case. For example, shame appeared as an important emotion for the pursuit of justice and, especially through the restorative justice movement, since the mid-1990s we have seen a renewed focus on the experiences and perspectives of victims – meaning also a more concentrated focus on victims' needs – and the introduction of often elaborate efforts to involve victims' narratives in the justice process.[36] As Walklate has argued, the victim's role in criminal proceedings has evolved into being "used more and more as a political and symbolic reference point".[37] This more victim-centred approach has been reflected in various policy changes since 1997, many of which have been influenced by and intertwined with an equally emotionalised political rhetoric.[38]

While these developments in and around criminal justice gave rise to a context in which the role of emotions is more widely acknowledged and more prominent, such role was predominantly problematic, as it was tied to the punitive logics that underpin the system as a whole. For instance, although the re-emotionalisation of criminal justice did provide for a greater recognition of the role of victims in the criminal justice process, this has acted less as a means of recognising the experience and context of victimhood, and more as grounds for justification for increased criminalisation and harsher penalties. To some extent, the 'punitive turn' in criminal justice predates the turn to emotions, as it is widely acknowledged that criminal justice systems, in the Anglo-American contexts at least, have become increasingly punitive since the late 1970s, displaying a tendency to criminalise more, to incarcerate more people and for longer periods, and to generally adopt a 'tough' political agenda in relation to crime control.[39]

Though the rise and pervasiveness of punitiveness has been the subject of widespread discussion and analysis in criminology and penology, the empirical evidence around it has been opaquer, and significant issues remain concerning what punitiveness actually is and how it can be

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[34] Karstedt 2011.
[35] Laster and O'Malley 1996.
[36] See Morgan and Zedner 1992; Walklate 2012; Rock 1990, 2012.
[37] Walklate 2012: 15.
[38] See e.g. Hall 2013.
[39] Skinns 2016.

identified or measured.[40] Despite the variety of possible definitions of punitiveness[41], most discussions revolving around the concept in the sociology of punishment have been influenced, to a greater or lesser extent, by Garland's leading analysis of the penal realm in the Anglo-American context at the turn of the century.[42] Garland argues that in the latter part of the twentieth and at the start of the twenty-first century, penal policy had experienced a return to a focus on "just deserts" characterised by a renewed centrality of retribution in the criminal justice system, in contrast to the consequentialist, "welfarist" approaches that were previously predominant.[43] This re-legitimisation of retributive aims and discourses has allowed for politicians to express "punitive sentiments" more openly and intensely, and for legislators to enact "more draconian laws".[44]

Of course, this is not to imply that the welfarist model that preceded this punitive turn was not emotionally driven. According to Garland, criminal justice in this previous moment tended to focus on a different set of emotions, which promoted a "more progressive sense of justice" that tended to retain a sense of "decency" and "humanity", and therefore "compassion" for the condition of offenders.[45] This shift towards punitivism was driven by a move in the emotional landscape of criminal justice towards more negative emotions, which was in turn grounded on a more generalised and intensified rhetoric and sense of anxiety. Garland summarises this affective, historical shift as follows:

> Since the 1970s fear of crime has come to have new salience. What was once regarded as a localised, situational anxiety, afflicting the worst-off individuals and neighbourhoods, has come to be regarded as a major social problem and a characteristic of contemporary culture.[46]

This account therefore suggests that the context of crime has been "re-dramatised" in the eyes of the public and used to influence "the style and content of policy making" in recent decades.[47]

This accentuated mood with regards to crime has been intimately intertwined with a re-dramatisation of punishment; scholars have argued that late modern societies, and especially those with stronger neoliberal tendencies, have displayed an increased tendency to seek more expressive and visual penalties, some of which were purposefully public and stigmatising.[48] Even the prison,

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[40] For a review of data on punitiveness, see Adriaenssen and Aertsen 2015: 94-5 on global research; Warner et al 2017 for research on punitiveness with jurors in Australia; and Roberts and Hough 2013 for public attitudes to sentencing in England. For a reconceptualisation of punitiveness as an affective socio-political phenomenon, see Carvalho et al 2020.
[41] Matthews 2005.
[42] Garland 2001.
[43] Garland 2001: 9.
[44] Garland 2001: 9.
[45] Garland 2001: 10.
[46] Garland 2001: 10.
[47] Garland 2001: 10.
[48] See Garland 2001; Pratt 2002; Simon 2007. See also Valier 2002 on 'gothic populism'.

which has been traditionally considered an impermeable, invisible space removed from the public's view, has been increasingly scrutinised by the media and the public in recent years, through news articles, documentaries, TV and cinematic portrayals, and political debates. These representations of prison life not only have become a popular source of entertainment, but also to a large extent are a direct expression of the tendencies discussed above, as they feed into public sentiments, and both shape and express punitive attitudes.[49]

The breadth and normality of representations and enactments of punitiveness in social life both contribute to and reflect a broader trend in social relations and political institutions to engage more actively and assertively with hostile sentiments and practices.[50] This suggests that, while it would be simplistic to understand the emotionality of punishment predominantly as an irrational reaction to rhetoric and fearmongering, a comprehensive understanding of the emotional dimension of punishment must recognise that, especially in more recent years, there has been a rise in what we call a form of hostile politics which can be directly linked to an affective attachment to a largely hegemonic, even if illusory, idea that punishment is useful and necessary. The following sections in this chapter examine this link between the emotionality of hostility and the perceived social role and purpose of punishment through an engagement with sociological, social psychological and political debates, paying particular attention to what they say about our contemporary feelings of insecurity and anxiety, and their relation to punitiveness.

Unpacking the emotional aims of punishment

This section concentrates on exploring how the social role of punishment can be conceptualised as inherently emotional, and how this conceptualisation can potentially explain the prevalence and the allure of punitive attitudes and discourses in contemporary western liberal societies such as the UK and the USA. For any such exploration of the emotional dimension and social dynamics of punishment, an obvious starting point lies in an engagement with the work of Émile Durkheim.[51] It was Durkheim who first proposed that the primary purpose of punishment is not to deter or control crime, neither is it to pursue a form of retributive justice; rather, the main aim of punishment is to provide for the "ritualised re-affirmation of collective values and the reinforcement of group solidarity".[52] That is, the apparatus of punishment serves to symbolically promote the image of an ordered and cohesive society whose values and rules are shared by the

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[49] See Chamberlen and Carvalho 2019a.
[50] For a detailed discussion of this, see Carvalho et al 2020.
[51] See e.g. Durkheim 1893 [2014].
[52] Garland 2013: 23.

whole of its political community, and to make people feel that they are part of this community. Within this framework, crime is portrayed and experienced as a violation of communal norms and punishment, by ritually targeting crime, symbolically reaffirms those norms and, in so doing, maintains and reinforces the bonds of social solidarity, bringing (or keeping) the community together.

The practices of many contemporary penal settings – the re-affirmation of shared values, the notion of crime as a moral and social violation, the expression of solidarity with the victim and those affected by crime – which have also become commonplace in recent criminal justice discourses, reflect some of the main aspects of this conception of the social role of punishment. At the same time, the image of society that underpins and is put forward by the symbolism of punishment, of a strong community bound together by common values that are only truly disturbed by crime, is nothing if not problematic. Rather, there appears to be overwhelming consensus that the last thirty or so years have been largely characterised by processes of social fragmentation,[53] something which has only been exacerbated by the advent of the economic crisis since 2008. Contrary to what Durkheim proposed, therefore, there is significant indication that there might be an inverse correlation between our emotional reliance on punishment and levels of social solidarity; in other words, it appears that individuals and societies are more punitive the less they experience conditions of social cohesion.

In saying this, we are not suggesting that the link between punishment and solidarity proposed by Durkheim should be completely abandoned; instead, we argue that this link must be reconceptualised considering contemporary conditions, and from a critical perspective. We have argued elsewhere[54] that to properly understand the surge of punishment and punitive feelings in specific social settings, it is necessary to analyse it precisely in relation to the lack of a concrete and comprehensive sense of social solidarity in these settings. This idea resonates with many strands of contemporary research that has suggested, for instance, that levels of punishment tend to be high in contexts where there are high levels of inequality or lack of welfare provision,[55] and that processes of criminalisation are more pervasive and authoritarian during periods of heightened social insecurity and anxiety[56] – which have themselves been linked to the erosion of more solidarity forms and structures of citizenship.[57] So while, as Durkheim suggested, there undoubtedly seems to be an intimate relation between the symbolic function of punishment and the

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[53] See Giddens 1991; Bauman 1991; Rose 2001.
[54] See Carvalho and Chamberlen 2018; Chamberlen and Carvalho 2019a, 2019b; Carvalho et al 2020.
[55] Downes and Hansen 2006; Lacey 2007; Pickett and Wilkinson 2010.
[56] Ericson 2007; Sparks 2012.
[57] See Ramsay 2006; Reiner 2010; Carvalho 2017.

state of social solidarity, contrary to what he predicted, at least in contemporary western liberal settings the urge to punish appears to be at its strongest when and where the bonds of social solidarity are most precarious.

In these circumstances, punishment becomes alluring because of the symbolic and affective role it performs as part of an apparatus geared at managing feelings of insecurity and social alienation more broadly. It does so by channelling generalised fears, frustrations and anxieties towards crime and criminals through use of processes of scapegoating.[58] This 'governmentality of unease'[59] relies on an artificial sense of solidarity, which effectively promotes a sense of identification through estrangement[60] by advancing an image of community in which individuals are bonded together by means of their vulnerability against crime and their antagonism towards offenders. This sense of solidarity on which punitive logics rely can be deemed artificial because it does not build upon or even actively relate to what can be considered the conditions for concrete solidarity, such as welfare, communication and mutual recognition.

Since punishment is invoked to produce a sense of solidarity precisely when the conditions for the actualisation of such solidarity are absent, and since the purpose of such sense of solidarity is precisely to repress and deny a complex range of insecurities and anxieties arising from social conditions, the constructed image of social order which it puts forward is necessarily simplified. Through punishment, individuals are invited to imagine themselves as members of a good, lawful, civil society who are pitted themselves against dangerous criminals who are predominantly portrayed as others who either reject or do not belong to the 'good' social order. Punitive logics thus produce and reinforce an illusory image of order, by engendering a "sense of orderliness" which permits individuals "to experience an idealized world with just resolutions"[61] that often contrasts with a much less neat and coherent social reality. This essentialised worldview is reproduced through the many rituals of criminalisation[62] performed in political, public and media discourses which precede and follow punishment, and it is inevitably abstract since it is removed from most people's social experiences.

However, symbolically and affectively this abstraction from concrete experience is precisely what gives punishment is strong appeal in circumstances of social fragmentation. The emotionality of punishment speaks directly to the 'anxious subject' of late modernity,[63] providing

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[58] On punitiveness and scapegoating, see Carvalho et al 2020.
[59] Bigo 2002.
[60] Bauman 2000; Sparks 2001.
[61] King and Maruna 2006: 23.
[62] See Carvalho and Chamberlen 2018.
[63] See Isin 2004.

them with a social psychological defence mechanism[64] which these subjects can use to cope with deeper, generalised insecurities and anxieties by channelling these feelings towards specific (often constructed) threats and fears.[65] This coping mechanism embedded within the symbolic apparatus of punishment is particularly enthralling because, as Ainsworth has observed, this logic is intimately related to cognitive biases that individuals commonly maintain to deal with the many anxieties and perceived sources of danger that affect their sense of safety and wellbeing.[66] Furthermore, beyond giving individuals an illusory sense of order, punitive attitudes are also linked to an "illusion of control", through which individuals manage their anxiety by focusing on specific identified threats (such as crime) which they believe can (or must) be controlled, therefore engaging in "continued irrational and ineffective behaviour even in the face of negative feedback".[67] That is, by engaging in punitive behaviour, individuals and societies can feel in control; however, since this sense of control is illusory and produced only through the symbolism of punishment, it is fleeting, and can only be maintained through the reproduction of punitive practices; in other words, the urge to punish has the tendency to self-perpetuate.

The emotionality of punishment thus allows anxious subjects to repress their feelings of insecurity and anxiety, by giving or reinforcing illusions of order and control, at the same time as it provides them with a channel through which to express their frustration by projecting hostile feelings toward criminalised others. We have argued elsewhere[68] that, since the solidarity embedded within punishment is intrinsically related to what Mead called "the emotional solidarity of aggression",[69] it can be characterised as a distinct phenomenon, that of 'hostile solidarity'.

Hostile solidarity and its implications

We contend that this affective production of hostile solidarity is predominantly the primary aim pursued through punitive practices, rhetoric and institutions in contemporary western liberal societies, due to the particular appeal it possesses as a means to cope with and repress feelings of insecurity and anxiety which are increasingly pervasive in these social settings. This last section of the chapter seeks to briefly examine why it is imperative for this emotional dimension of punishment to be recognised and scrutinised, by highlighting what we consider three of its main –

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[64] See Brown 2003.
[65] See Marsh 1996; King and Maruna 2009; Carvalho and Chamberlen 2016.
[66] Ainsworth 2009.
[67] Ainsworth 2009: 265.
[68] See Carvalho and Chamberlen 2018.
[69] Mead 1918: 591.

and most concerning – implications to punishment scholarship and to the ethics of criminal justice more broadly.

Punishment and subjectivity

Firstly, if the primary aim of punishment is emotional, and emotions are understood as embodied sources of active subjectivity, then this implies that an understanding of the role of punishment in society cannot be dissociated from a serious examination of the identities and lived experiences of the individuals and groups that compose that society, as well as of the role that punishment plays in the constitution of those identities and experiences. In other words, punishment is primarily about those individuals who identify with the values and expectations contained within a particular society's social imaginary,[70] and in whose name it is performed, rather than those who are the target of punitive practices. Put simply, punishment is about 'us' more than it is about 'them'. As mentioned above, the emotional appeal of punishment lies in how its symbolic apparatus reinforces images of social order and, in so doing, provides a channel for aggression through which feelings of insecurity and anxiety can be redirected and managed.

However, at the same time, this punitive apparatus relies on the (re)production of specific forms of subjectivity that are aligned to the social imaginary it represents. The emotional solidarity of aggression brings people together not simply as law-abiding members of society', but as punishers – as subjects actively concerned with addressing injustice through punitive measures. Punishment thus contributes to a specific representation of social reality that emphasises the threat of crime and deviance more broadly to order. To do this, the punitive apparatus relies on the production of another kind of subjectivity, that of punishable subjects – individuals and groups that can be effectively scapegoated by punishment.[71] For this reason, punishment both fuels and feeds upon processes and legacies of marginalisation and exclusion through its rituals of criminalisation.

Punishment and ideology

For the emotional aim of punishment to be fulfilled, that is, for individuals in society to feel a sense of security and satisfaction out of punitive practices, they need to feel validated by this process, and that requires this channelling of aggression towards a punishable subject to feel justified, righteous. Part of what makes punishment so appealing is that the emotional release that

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[70] Carvalho and Chamberlen 2018; see also Sarat 2014.
[71] See Carvalho et al 2020.

it offers is presented not as a hedonistic indulgence or, even worse, a sadistic pleasure, but as the right thing to do. There is thus a strong ideological dimension to punishment, in that it relies on the rationalisation of its social purpose.

This is arguably what lies behind the relentless insistence on finding or maintaining a rational justification for punishment, even in the face of often overwhelming evidence of the failure to provide a sound philosophical or empirical basis for ideas such as retribution or deterrence.[72] We believe that punishment serves a purpose in society, be it in the form of reducing crime, rehabilitating offenders or achieving a sense of retributive justice, because to do so allows us to ascribe a sense of utility to punishment that adds to and essentially grounds its emotional appeal. The main problem with this aspect of punitive logics is that, if it is true, then it suggests that the appearance of utility in punishment is more important to its primary (emotional) role than its actual utility. In other words, punishment does not have to 'work'; people only need to believe that it does to derive satisfaction from it.

Punishment and violence

The third and final implication of linking punishment to the pursuit and engendering of hostile solidarity is that, contrary to the way it is mostly presented and justified, the practice of punishment is not aimed at dealing with or addressing violence; rather, it appears that its primary aim is to produce, or at least to channel, specific forms of violence towards punishable others. The sense of orderliness pursued through punishment is tied to a host of penal and punitive practices which remain inextricably related to pain and violence.[73] And, since punitive discourses and practices do very little to address the lack of concrete solidarity underpinning the feelings of insecurity and anxiety that lead people to pursue punishment in the first place, but rather depend on an essentialised worldview focused on issues of danger and vulnerability, this means that punishment offers no way out of the persecutory phantasy[74] which it promotes. The emotional aim of punishment therefore tends to self-perpetuate, reinforcing violence rather than tackling it.

Conclusion: Punishment and the aims of justice

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[72] For a comprehensive discussion on this, see Mathiesen 2005.
[73] On this link between punishment and pain, see Sykes 1958; Christie 1981; Liebling and Maruna 2005; Liebling 2011; Chamberlen 2016, 2018.
[74] See Reeves 2019.

Chamberlen, A. and Carvalho, H. (forthcoming) 'The Emotional Aims of Punishment', In Papacharalambous, C. (ed.), The Aims of Punishment: Theoretical, International and Law Comparative Approaches (Baden-Baden: Nomos).

This chapter has argued that a proper examination of the role of punishment in society requires a serious engagement with its emotional dimension. Such engagement, in turn, suggests that the main aim of punishment is linked to the pursuit of a sense of solidarity through hostility, which is fuelled by unresolved feelings of insecurity and anxiety that are pervasive in specific social settings and emphasised by particular social conditions. The main conclusion that arises from this investigation is that our social reliance on punishment is problematic, since it gears us towards a hostile attitude against marginalised others, which tends to self-perpetuate; in doing so, it exacerbates rather than alleviates the anxieties that drive our punitiveness. If this analysis is sound, then it strongly suggests the need to critically rethink the relation between punishment and justice. This relation has time and again been put under scrutiny and been left wanting; however, attention to the emotional dimension of punishment changes the frame of enquiry, from whether punishment is just or whether it can achieve justice, to why it is that we are so attached to the idea that punishment is linked to justice in the first place.

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