

Violence “too good to be true” and a legal proposal: psychological punishment

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Summary: In this paper I compare two cases of punishment of disrespect, I question the justifications for such punishments and make a proposal that may help confirm or reject this questioning: psychological punishment.

Keywords: disrespect, psychological violence, psychological punishment.

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1 Two cases of punishment of disrespect

Case 1: On 22-2-2017 an article entitled “The revenge of a female cyclist on a sexist: too good to be true?” was published on the internet¹. The piece refers to a video in which a woman breaks the rear-view mirror of a van driven by a man who had made disrespectful comments to her. I will consider the breaking of the mirror as a punishment.

Case 2: In 1776, 19 year old Jean-François de La Barre was executed, after being sentenced to death by the court of Abbeville (France). “They accused La Barre of not having saluted at the passing of a procession and of having damaged a crucifix that was on a bridge. But it was only proved that he did not take off his hat when the procession passed and that he sang ‘scandalous songs’.”²

I have looked for differences between these two cases which would justify the punishment in one of them but not in the other and I have found the following primary differences:

First, the punishment in case 2 was very much greater than in case 1. But what I discuss here is not the size of the deserved punishment, rather whether one of the punished conducts deserves punishment while the other does not.

Secondly, it is probable that in case 2 the punishment was legal, in two senses: in the sense that the punished behavior was prohibited by the law and in the sense that the punishment was applied after a legal procedure. So, at least to some degree, this makes the punishment in case 2 more justified than in case 1 for those who think that legality implies justification. But for those who do not think so both cases remain, at the moment, equally (un)justified.

The last major difference I have encountered is the sympathy or antipathy awakened by the author and the “victim” (as far as I know, the relation between sympathy / antipathy and objectively measurable benefits or damages has never been studied by legislators, moralists or other proponents of punishment). If the person who has power to aggress/punish sympathizes with the “victim” and detests the perpetrator, the latter is more likely to be imposed a punishment which will be justified, if necessary, through the corresponding verbiage. If the consensus is

¹ “La venganza de la ciclista” (2017), my translation. According to this article, the scene was probably performed by actors.

² Ranke-Heinemann (1998, p. 278). At present, similar punishments to that of case 2 can be imposed; for example, article 295-C of the Pakistan Penal Code (“Pakistan Penal Code”, 2017) states that disrespect to Prophet Muhammad shall be punished “with death, or imprisonment for life.”

large enough, the verbiage can be greatly reduced and it might be simply asserted, for example, that the behavior was “an intolerable attack on human (case 1) / divine (case 2) dignity”, an “assertion” that really asserts nothing but serves as a hallmark of the present consensus.

2 A legal proposal: psychological punishment

Though it is difficult to rationally justify the punishment of only one of the two aforementioned actions, it may be possible to justify the punishment for both. I have written a paper on the punishment of disrespect and psychological pain in which I argued that allegations of psychological pain are potentially much more deceptive than those of physical damage, casting serious doubt on the justifications for punishment based on the former and on the “psychological violence”³. The fact that it is easy to *deceptively* justify one of the punishments mentioned in section 1 while condemning the other is evidence for this.

But, as I may be wrong, I hereby publicly make a legal proposal that I hope will help me to test my conclusions. I propose that the penal codes include psychological punishment alongside other possible punishments and the generalization of its application. I propose the possibility, for example, that a person who breaks the mirror of a lawmaker’s car or punches him/her in the face, be condemned to a number of sessions of psychological pain in which he will be insulted, called useless and ugly and threatened with losing their friends or, if religious, with going to Hell.

When legislators, judges, and public opinion accept this new mode of legal punishment, we will have evidence against the hypothesis that the success of the term “psychological violence” is due to its usefulness in the deceptive justification of (physical) violence.

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³ Cortizo Amaro (2015).