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Understanding Evil: Reflections on Thought, Action, and Punishment

By

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Abstract

Actions are the basis for moral judgment. In this paper, I develop a concept of action that illustrates the differences between bad, evil, and sadistic actions. Using this theory of action, I apply it to punishment theory and the philosophy of criminal law. Bad and evil actions are defined by differences in their magnitude, as measured by the ability of the victim to recover from harm. I propose that sadistic actions comprise a qualitatively unique form of wrongdoing. They are performed following a bad or evil action with the intent to add insult to injury. I propose that within a retributivist framework, this theory of action allows for a more effective approach to punishing bad and evil actions. And within a consequentialist framework, this theory of action allows for a more effective approach to punishing sadistic actions.

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Table of Contents

Abstract

Acknowledgments

Table of Contents

Introduction

Chapter 1: A Theory of Action

Chapter 2: Bad, Evil, and Sadistic Actions

Chapter 3: Punishing Badness, Evil, and Sadism

Conclusion

References

Introduction

Humans are primarily judged (morally) by their actions. People can only be punished for their actions because actions are the basis for moral judgment. In this thesis, I will examine the differences between bad, evil, and sadistic actions. I contend that bad and evil actions differ merely in terms of magnitude, while sadistic actions incorporate a conceptually distinct element of wrongdoing: insult to injury. I will then explain the consequences these differences have for retributivism, consequentialism, and punishment.

-Chapter 1-

A Theory of Action

I define action as an event that is sequenced in the order of reflection and execution. I define reflection as the thought relating to the possible consequences of action before execution. This means that reflection is only incorporated into an action if the action itself is performed. If one reflects on an action, and chooses to not perform the action at all, then the action did not occur. For example, before eating an apple, I may reflect on that act and think about the healthy properties the apple had, and how these properties will confer additional healthy benefits to my well being. On the other hand, before eating an entire chocolate cake, I may reflect on that act and anticipate its negative consequences for my health. I define execution as the series of movements that collectively form the action. For example, in the action of picking up a glass, execution is the movement of my hand to grasp and lift the glass.

This theory of action is helpful for the following reasons. First, it incorporates the interactions between the mental and physical elements of an action. Thoughts have the unique power to shift behavior. Actions that are guided by a thought process can be modified and altered during execution. For example, in a game of football, I may decide to throw the ball to my friend to the right, but upon processing new information as defenders approach, I may decide that throwing it to my friend to the left would be the better decision. Thus, reflection played a role in guiding the execution of my action. This compares with Donald Davidson's theory of action that an action is "something an agent does that was 'intentional under some description'¹. Like Davidson, I contend that there is a conceptual link between action and intention. An in-depth

¹ Davidson, Donald, 1980, *Essays on Actions and Events*, Oxford: Oxford University Press.

discussion of intention, however, is beyond the scope of this paper. While the use of this term may unnecessarily conjure up potential objections on the basis of its nebulous properties, I use the term “intention” as a basic reference to some active thought process relating to the execution of the action. And here is where I diverge from Davidson: rather than view intention as a basis for action, I argue that it simply affects and helps distinguish between different types of actions. I do not argue that intentional actions are the only genuine actions. Later I shall discuss the role my concept of action plays in distinguishing between bad, evil, and sadistic actions, and how we can punish them accordingly. It is important to reiterate that I apply my theory of action as a tool for conceptually distinguishing between different forms of wrongdoing, therefore aiding punishment. I do not contend that this theory of action is ideal for analyzing action under all circumstances. When considering actions, however, it is important to understand the crucial role they play in the need for, and design of, punishment.

Only actions can be punished. An individual cannot be punished for doing nothing. Punishment, by definition, is performed in response to a morally reprehensible act. Without the prerequisite act, there can be no punishment. For example, I cannot punish my friend for having brown colored eyes. If I were to harm my friend for having brown eyes, then my actions would not be punishment; they would be assault. However, when an individual commits an action that violates rules of conduct, he or she is punished in response.

This is one of many features that distinguish punishment from crime. When people are “punished” for not doing anything, then this “punishment” becomes criminal. If I “punished” my friend for having brown eyes, then I have essentially harmed him not for his actions, but for his identity. This idea of punishing people for who they are rather than what they have done forms one of many ideological justifications for genocide. By attacking one’s identity rather than one’s

actions, and rationalizing it as “punishment”, many war criminals have been able to initiate the level of political, social, and military mobilization needed to commit acts of genocide. By attacking the Tutsis for their ethnic identity, Hutu forces were able to rationalize over 500,000 murders². This idea of using character assassination to justify punishment sheds light on many historical figures that used this technique to propel their crimes.

Therefore, punishment can only be justified if it is performed in response to an action. As a prerequisite condition, this action logically infringes upon a predetermined set of moral norms or code of conduct. Only then can punishment be introduced into a framework of justice. By justice, I refer to the societal response to a violation of a moral code. When an individual commits a crime, they have violated a moral norm, resulting in an injustice. This injustice places the existing state of affairs in an imbalance between the criminal and the victim. Therefore, the authorities try to respond with an appropriate punishment. We can thus view justice as the application of guiding principles in order to correct a moral imbalance in the existing state of affairs.

The question of how to administer punishment is an ongoing, and relevant, discussion. Two prominent, and competing, theories of punishment are retributivism and consequentialism. Retributivists believe that people should get what they deserve. This dessert takes the form of fitting punishment. By “fitting”, theorists mean that the punishment’s properties are closely tailored to match the magnitude of the infraction committed. In contrast, consequentialists believe that what justifies punishment is a consequence of inflicting it. For example, punishment is justified if it rehabilitates the individual from criminal behavior, or deters the individual from committing crimes in the future.

² Des Forges, Alison (1999). *Leave No One to Tell the Story: Genocide in Rwanda*. Human Rights Watch. ISBN 1-56432-171-1. Retrieved January 12, 2007.

Thus far, we have established that only actions can be punished. An action can be a singular instance, or multiple instances. An atrocity can be a single instance or multiple instances. For example, the Hiroshima bombing was committed through the singular action of pushing the release button on a weapons trigger in the Enola Gay³. The Aurora, Colorado shooting and Sandy Hook Shooting were the result of multiple actions^{4,5}. The Rwandan Genocide was the result of multiple actions committed by multiple people⁶. A comparing of these atrocities illustrates differences in the potential distribution of blame. The question is how we can assign blame according to the action committed. This is not an easy discussion, and the idea of blameworthiness is still contentious. Finding the most effective way to appropriate blame for criminal acts is problematic because it requires authorities to weigh actions differently. For example, while Adolf Eichmann may have given his approval to murder countless individuals, he may or may not have been more blameworthy than the individual who actually pulled the trigger. Both were technically responsible for the victim's death, but their role in the action was different. Assuming Eichmann was assigned more blame because of his role in organizing and authorizing these actions, it is not clear how one would do so, and according to what standards of evaluation. It has no reliably determinable calculus because the circumstances surrounding each individual's involvement in a criminal act constantly vary. Therefore, I am not going to grapple with that problem in this paper because my primary focus is on the distinction between bad, evil, and sadistic actions.

Before entering a discussion of bad, evil, and sadistic actions, however, with the topic of Eichmann on hand, I would like to address an objection that Leo Zaibert made to Hannah

³ "The Bombing of Hiroshima and Nagasaki." *History.com*. A&E Television Networks, n.d. Web. 10 Apr. 2013.

⁴ "James Holmes Appears in Court Being Accused of Killing 12 People in Aurora Cinema Shooting." *BelleNews.com*. N.p., n.d. Web. 10 Apr. 2013.

⁵ "Sandy Hook Elementary Shooting: What Happened?" *CNN*. Cable News Network, n.d. Web. 10 Apr. 2013.

⁶ "United Human Rights Council." *United Human Rights Council*. N.p., n.d. Web. 10 Apr. 2013.

Arendt's argument that it was "bafflingly naïve" to think that Eichmann did not display the stereotypical behaviors of an evil individual⁷. Zaibert writes that "banal wrongdoers are utterly common", and it was therefore naïve to believe that Eichmann would be an evil megalomaniac during his criminal trial. However, I disagree with this position, and in support of Arendt's disappointment with the rather boring nature of Eichmann, it may seem that she associated Eichmann's actions with a disturbing disregard for the value of human life. This is a reasonable association to make because Eichmann was responsible for sentencing countless individuals to their death. In this sense, his actions shake one to their core. I do not think it is fair to say that her disappointment with Eichmann's clerk-like behavior was naïve given the gravity of his actions.

By analyzing other violent crimes, it can be argued that Arendt's expectation was not unwarranted. For example, Idi Amin, the president of Uganda in the 1970s was singlehandedly responsible for the systematic oppression of his people. Under his totalitarian rule, he sentenced scores of people to death. His behavior suggested that a grandiose sense of self-worth may have driven his immoral behavior. Until his death, he maintained the belief that his actions were justified and that Uganda still needed his leadership⁸. Despite their several dissimilarities, Eichmann and Amin are comparable figures because of their responsibility for the deaths of countless individuals. However, while the former displayed banal behaviors, the latter showed the kind of attitude reflective of what Arendt was searching for in Eichmann. While Arendt may have gone too far in expecting to see the devil himself with Eichmann, it is not altogether absurd to be surprised when someone with such a disturbing criminal record has the demeanor of a clerk.

⁷ Zaibert, Leo. "Beyond Bad: Punishment Theory Meets the Problem of Evil." *Midwest Studies in Philosophy* 36 (2012): 93-111. Print.

⁸ "Idi Amin, ex-dictator of Uganda, dies". USA Today. 16 August 2003. Retrieved 8 August 2009.

Thus, Zaibert's argument that "banal wrongdoers are utterly common" warrants additional evidence. He does not provide examples of other war criminals that have had rather ordinary demeanors. While Eichmann may have appeared boring in his courtroom trial in Israel, he may have been megalomaniacal during the prime of his crime spree. Zaibert cannot make the assumption that because Eichmann was rather boring and ordinary during his criminal trial, that he was similarly boring and ordinary during the time when he was in charge of executing countless individuals. The example is interesting, and ought to be the subject of further discussion because investigations of personality and crime are a topic I explore later in this paper.

-Chapter 2-

Bad, Evil, and Sadistic Actions

In this thesis, I do not contend that these are the absolute defining features of bad, evil, and sadistic action. I am merely providing suggestions for what I believe may be helpful in differentiating between these types of actions. In this chapter, I will justify my definitions for bad, evil, and sadistic actions. I define a bad action as an action that inflicts, or attempts to inflict, temporary or transient harm on another agent without just cause. I define just cause as self-defense. For example, punching my colleague sitting next to me, studying diligently for his developmental biology exam, is bad. If, in a fit of anger from excessive studying, he decides to tackle me and I punch him in response, then I have not committed a bad action because I had just cause. I define evil as an intensifier of bad. Evil is magnifier of bad, in which one inflicts permanent or long-lasting harm on another person. For example, shooting my colleague sitting next to me would be evil. If my colleague tried to shoot me, and I shot him in response, then I did not commit an evil action. I define sadistic actions as actions that are committed to add insult to injury. For example, shooting my colleague sitting next to me, setting the corpse on fire and mailing the ashes to his family members would be sadistic.

Sadistic actions are neither evil nor bad. They are a category unto themselves. They are the actions that we find particularly insulting in the context of a wrongdoing. Sadistic actions therefore follow bad or evil actions as part of a sequence. Consider the example provided: I shoot my friend, then set his corpse on fire and mail the ashes to his family. The evil action was the shooting because I inflicted permanent harm by killing my friend. But the sadistic action was setting his corpse on fire and mailing his ashes. There was no clear strategy to this action other

than to insult him. The sadistic action does not make sense without the prerequisite evil action. I cannot mail my friend's ashes to his family if there was no murder to begin with. The sadistic action has added significance outside of the initial crime as a distasteful insult to the victim.

I argue that sadistic actions therefore fit in the framework of a sequence of actions. First, a given individual commits a bad or evil action, and we classify this action as the initial wrongdoing. This wrongdoing has a context because this crime is a violation of typical moral norms, and society usually prepares a response in the form of punishment. However, following this violation, the criminal performs an additional action that, within the context of this initial violation, takes on a higher level of significance. It adds an insult to injury. In addition to harming another individual, the criminal elects to insult the victim further by insulting this person's suffering.

Furthermore, I contend that only human beings can perform sadistic actions. In the natural world, omnivores and carnivores may hunt and therefore harm other animals, but this happens as part of a cycle driven by the food chain and the transition of biomass from lower to higher energy trophic levels⁹. Sometimes an act in the natural world that we would consider to be a moral wrongdoing has a biological and evolutionary significance. For example, when a competing male lion kills the current male lion of a pride, he proceeds to kill all of the cubs belonging to the previous male. Without an understanding of the natural biology of these animals, this would appear to be a cruel act. However, it is now understood that the male does this cause the lionesses to enter estrus, therefore allowing him to mate and pass his alleles to the

⁹ McShaffrey, D. "Trophic Levels." *Leaders in Environmental Activism*. Marietta College, n.d. Web. <<http://www.marietta.edu/~mshaffd/lead/trophic.pdf>>.

next generation¹⁰. To transpose my theory if harm and wrongdoing to animals is inappropriate, because only humans display an understanding of how to continually develop unique and insidious methods of inflicting harm.

Before moving on, in this essay, I will assume that the agent of action is a normal human being. I define a normal human being as one that responds to, and recovers from, harm at an improvable rate. For example, one may argue that Dan, who was insulted in the 3rd grade for his weight and never emotionally recovered, is an example that compromises my that relies on the concept of recovery. This is an example of the overly sensitive person never recovers from minor instances of harm. Since every rude comment will gets under his skin and perpetually haunt him, then by definition, these acts are evil. On the other hand, one may consider the example of the individual who experiences massive amounts of harm (assault or rape, for example), but recovers remarkably quickly. Since this person recovers at such a fast pace, then they were not the victim of a bad or evil action.

I response, I concede that there are individuals who are overly sensitive as well as individuals who are extremely tough. However, their normal counterparts significantly outnumber these individuals. I contend that while a normal response to difficulty may be a vague parameter to some, I believe it is suitable for the needs of this paper. Most individuals grapple with harm in varying degrees, but they typically do not border on the extreme. If Dan was insulted for his weight in 3rd grade, and did not recover emotionally, then I place the responsibility of harm on Dan for not being mature enough to understand that miniscule insults ought not affect one so deeply. I cannot be held to that standard of recovery in this paper because it is an unreasonable and infrequent example. Similarly, the individual who displays a

¹⁰ Patsalides, Laurie. "Why Do Male African Lions Kill Cubs? Learn the Process of a Male Lion Taking Over a Pride." *Bright Hub*. Disqus, 9 Oct. 2011. Web. 10 Apr. 2013. <<http://www.brighthub.com/environment/science-environmental/articles/60010.aspx>>.

remarkable ability to recover from harm that would cripple most people cannot be held to the normal standard of recovery I establish in this paper. This is because it would be difficult to actually harm someone with such a high propensity for recovery. For example, the rape victim who recovers from the physical and psychological trauma has a higher ability to recover from harm than the everyday individual. My arguments therefore exclude examples such as this, because their resilience is just as infrequent as the overly sensitive individual.

I defined sadistic actions as actions that add insult to injury. Zaibert follows a similar line of thought in his characterization of evil actions. He argues that evil actions have a certain “pointlessness” to them (107). They do not serve a clear purpose, but are insidious in their nature.

He writes:

“What I would like to suggest is that what is special about evil actions is something related both to thoughtlessness and to excessiveness: a certain *pointlessness*. Consider another example. When cattle cars were insufficient for transporting victims to extermination camps, the Nazis would use regular passenger trains. In these occasions, victims were forced to pay the regular one-way fare for the journey (to their certain death). As with previous examples, while being sent to a gas chamber is obviously the most harmful, charging the fare is what strikes us as evil. But the charging was utterly *pointless*: every victim was going to be dispossessed of everything she owned anyhow. It is pointless not in lacking utilitarian sense, but in the sense that it defies understanding, that it is hard to wrap our minds around it: not in the sense that it is excessively harmful, and not in the sense of it being somehow necessarily “thoughtless.” (107).

I partially agree with this, and would like to present the following objection. Zaibert faces the following dilemma in his systematic characterization of wrongdoing. If he is presented with the case of an individual who shoots ten people and then charges them for the bullets, then he would state that it was bad to shoot ten people but evil to charge them for the bullets used. Zaibert preemptively responds to this objection by stating that badness does come in degrees:

“This unitary form of wrongdoing admits of degrees, and it is variegated within itself (say, you could commit wrongs against people, or against property), but the assumption is that wrongdoing is essentially one single phenomenon. Murder, for example, is more serious than theft, because it is more harmful; similarly, genocide is more serious than murder, again because it is more harmful—but these are all wrongs in essentially the same sense” (93).

However, this does not explain what these criteria are and how we can compare bad actions. While I would agree that genocide is more serious than murder and is more harmful, he does not explain how we can weigh harm. He also does not believe that evil actions are necessarily worse than bad actions or vice versa. He simply argues that they are truly different forms of wrongdoing:

“...it is clear that the destruction, indignity, and death which took place during *Kristallnacht* was extraordinarily more harmful than the fine—but the fine which followed *Kristallnacht* is a better candidate to being evil (even if much less harmful than *Kristallnacht*)” (96).

By stating that bad and evil actions can inflict different levels of harm, Zaibert concedes that the terms bad and evil are used to describe forms of wrongdoing rather than levels of harm. And

while he made this explicit in the beginning of his paper (93), this indicates that bad and evil have no association with measurements of harm, because bad actions may be more harmful than evil actions and vice versa. I would argue in response that by excluding levels of harm as distinguishing features of bad and evil, he misses an opportunity to view actions in terms of their effects. This is important because if he is to argue that bad and evil are two unique types of wrongdoing and have no relation to the amount of harm committed, then he ought to provide some calculus for comparing harm.

This forces him to understate the magnitude of moral wrongdoings on a relative scale. It is unfair to state that shooting ten people is merely bad relative to charging them for the bullets, which he states is evil, even if harm has nothing to do with his metric for distinguishing between bad and evil actions. The rhetoric “bad” and “evil” implies a relationship governed by magnitude. For example, if Zaibert were presented with an example of destroying an entire neighborhood versus shooting multiple people, he state that both are bad actions, but do not qualify as evil. If he was to compare the murder of one individual versus the murder of ten people, he would state that both are bad, and that the latter is more harmful than the former, but that neither is evil. This, to me, seems to understate the magnitude of these crimes because following his designation of both crimes as bad, he would have to qualify it by stating that one was, nevertheless, more harmful than the other. I contend that while they are morally reprehensible, the term “bad” implies a lower level of harm *prima facie*, rather than a conceptually different act: the more harmful crime was evil rather than bad but more harmful than the other crime. There ought to be some consideration of the level of harm when distinguishing between different types of moral wrongdoings because regardless of how the example is presented, the victim is more affected by the more harmful crime.

My definitions of bad, evil, and sadistic solve this problem by allowing an examination of actions that allow for both quantitative and qualitative comparisons. In the example of the *Kristallnacht*, I would argue that the long-lasting destruction of the Jewish community is evil, while charging them would be characterized as sadistic. What Zaibert may have been searching for is the element of insult in his discussion of the insidious pointlessness of evil actions. The decision of the Nazis to charge the Jewish community for the destruction of their property may have been driven by a desire to insult them, and magnify their humiliation.

Sadistic actions are not more harmful than bad or evil ones. It is a conceptually distinct form of wrongdoing. Sadistic does not imply a higher magnified version of evil, or bad. It simply means that the action committed was a different form of harm than a bad or evil action. They are qualitatively rather than quantitatively different. In viewing the relationship between bad, evil, and sadistic actions, I would argue that evil actions are subset of bad actions because of their magnified nature. And in most instances, I will assume actions with a high magnitude of harm are committed more infrequently than actions with a low magnitude of harm. In contrast, sadistic actions occupy a set of actions that are separate from bad and evil actions, but would not make sense without the context of a bad or evil action. For example, the Nazis could not have charged the Jewish community for the destruction of their property during the *Kristallnacht* without destroying beforehand.

Using this way of categorizing wrongdoing may be more effective because it provides the philosopher with a more versatile base to categorize and describe actions by not restrict descriptions of wrongdoing to only two terms exclusively distinguished by the qualitative nature of the crime. This is not to say that having four or five terms is better than three, because I only propose the use of these terms in order to allow for both quantitative and qualitative

comparisons. Using the word sadistic exclusively for actions that add insult to injury in the context of bad or evil actions solves for this problem.

According to my definitions of bad, evil, and sadistic actions, attempted harm is both a necessary and sufficient condition for wrongdoing. Attempted harm is observable and reflects intent. The philosopher cannot be expected to deduce intent from confessions of the wrongdoer, but can rely on the actions committed and attempts to harm. By attempting to harm another person, the intent to cause harm is rather clear. If I attempt to shoot my friend but fail, then it can be concluded that I wanted to shoot my friend. Consider Eichmann, who argued that he was simply a cog in the machine. In this case, we can turn to the numerous instances he voluntarily sentenced people to death. Eichmann did not hesitate when presented with the opportunity to kill certain individuals. He did not merely attempt to harm other people; it was his approval that certified their execution.

The use of harm as a parameter for definitions of bad and evil actions, I argue, is useful, but Zaibert presents an objection:

“Assume that X, Y, and Z, are evil acts; presumably, *attempting* to do X, Y, and Z, would be evil too—and attempted evil acts need not cause harm at all. So, if evil can be attempted, definitions of evil that focus on harm—as Kekes’ and Card’s do—face obvious difficulties. For the possibility of attempting evil suggests that harm (serious or not) is not even a necessary condition for evil after all” (106).

To this, I present the following responses. First, there is a distinction between attempted harm and harm itself. If harm is attempted, then it can end in two possibilities: harm is either inflicted or it is not. Definitions that rely exclusively on the actual infliction of harm as the basis for

wrongdoing, I agree, face difficulties. But this is different from definitions, such as mine, that focus on *attempted* harm. The difference is that by attempting to harm another individual, the intent has already been made clear.

Additionally, Zaibert uses the phrase “extraordinarily bad” to refer to the actions of the Kristallnacht (106). By saying that some actions are extraordinarily bad, as opposed to a little bad, he implies that bad actions fall along a spectrum. Some actions may be really bad while others are just a little bad. While he states that badness comes in variegated degrees (93), but this compounds the difficulty of being able to weigh harm. Evil actions, according to his criteria, fulfill a form of insidious pointlessness, but he does not provide a spectrum along which to compare evil actions. This is problematic because he is willing to argue that the Kristallnacht was extraordinarily bad, but charging the community for its destruction is evil. If the Kristallnacht was extraordinarily bad, then it could be argued that it could simply be a form of wrongdoing that was less evil than charging the community, a significantly more evil action.

By conceding that moral wrongdoings have a spectrum, Zaibert requires an additional criteria for conceptually distinguishing between bad and evil actions. He has to explain why some actions would be extraordinarily bad as opposed to slightly evil. What may be a qualitative difference in intent according to his criteria may instead be a slight difference in the quantity of the crime. In response, Zaibert may argue that this is an irrelevant objection because he is only interested in evil actions, and evil actions are conceptually distinct from bad actions regardless of the amount of harm committed. However, this may devolve into a slippery slope because the destruction of an entire community’s property could be construed as pointless as well. This requires a more in-depth explanation of what makes an action insidiously pointless as opposed to very harmful.

In contrast, my framework may allow for a set of conceptually distinguishing criteria along a spectrum of actions that are bad or evil. Given the example of the Kristallnacht, I would argue that it is evil because it was the permanent and long-lasting destruction of a community. This is an ‘injury’ for the community, and it would take quite some time to rebuild the neighborhood and therefore ‘recover’. The decision to charge them, however, is insulting in the context of the destruction, and sadistic. In order to compare evil (or bad) actions to sadistic actions on a spectrum, I would argue that this is best served by weighing the attempted harm. If we compare the evil actions of burning a home down versus shooting someone in the head, then it can be seen that the harm from shooting someone in the head is more permanent and long lasting. This allows us to place evil actions on a spectrum. Comparing the bad actions of punching someone in the arm versus breaking someone’s arm, it can be seen that punching someone in the arm confers more temporary harm. This also allows us to place bad actions on a spectrum.

One could argue in response that the distinction between bad and evil actions becomes blurred since I haven’t defined transient vs. long-lasting harm. Therefore, what might be considered a bad action should actually be viewed as an evil action. I would respond to this argument by stating that harm can be measured by the ability to recover. If the ability to recover is minimal or small, then it is evil. If the ability to recover is high, then it is bad. In order to compare sadistic actions to each other, then we can compare the extent to which the insult is distasteful. I define distasteful as offensive. If we compare charging the community for the destruction of their own neighborhood versus charging the family for the cost of the bullet that murdered their loved one, then *prima facie* we would likely state that the latter is more distasteful and offensive than the former, and therefore more sadistic.

In order to rectify the imbalance caused by moral wrongdoings, we need to apply a working definition of justice. Zaibert explains the role of fittingness in just punishment when he writes “Since fittingness is intimately linked to justice, and since only retributivists care about fittingness, they are also the only punishment theorists decisively concerned with justice” (97). The problem with this argument is that Zaibert states that fittingness is intimately linked to justice, but does not explain why this is the case. This is problematic because what Zaibert, the retributivist, views as justice may not be the case at all for the consequentialist. By presenting what characterizes justice, rather than what defines it, he faces the difficulty of defending a position that may constantly change. For example, justice in his view may be characterized as the most fitting punishment, but other features may also characterize it.

He provides a description of justice by stating that, “The retributivist wants justice for its own sake; often justice involves punishment, but on other occasions it involves other things in addition to (or instead of) punishment” (111). This is helpful because it means that Zaibert is not arguing that justice is exclusively characterized by fitting punishment. However, it introduces additional ambiguity because he does not define these other properties of justice. Reading further, it appears that he defines justice as desert (101), but this only begs the question further. In terms of desert, the retributivist defines desert as the most fitting punishment. But it is not clear why the most fitting punishment for the crime is what the doer of evil or bad actions deserves. A working definition of justice is an interesting topic for consideration, because it affects the discussion comparing the efficacy of retributivist versus consequentialist punishment.

The consequentialist view, I argue, is not given a fair representation for how it would assess Eichmann’s actions and punishment. Justice, or a just punishment from the consequentialist view, would be defined as punishments that have a rehabilitative, deterring, or

other positive benefit. In response, Zaibert states that the problem is that, “In dismissing the difficult problem of giving people what they deserve, consequentialists are exposed in their cavalier sidestepping of the normative discussion of justice. Struggling (conceptually) with evil is a problem *worth* having” (97). However, perhaps the consequentialist, in his or her attempt to understand how a punishment can affect the criminal, is not sidestepping, but trying just as hard to engage in a normative discussion of justice and conceptual approach to evil because they want punishment to confer a positive benefit. From the context, it may be concluded that the most fitting punishment for a crime is the most just one. But since there is no definition of justice to corroborate this argument, it remains to be explained. It is also not clear what a “decisive” concern with justice actually entails. An explanation of the difference between a concern with justice and a decisive concern with justice is required to illustrate the problem Zaibert may have seen with the consequentialist discussion of justice.

Nevertheless, I would argue that Zaibert stipulates that an attempted act of harm does not actually inflict harm. For example, if I intend to shoot and kill my friend studying next to me, but only shoot and temporarily wound him, then I have still actually inflicted harm even though it was not the harm that I had intended. I have still committed a moral wrongdoing in the process. Specifically, I committed a bad action because the harm would be temporary and transient. If I had killed him, then it would have been an evil action.

Furthermore, Zaibert’s argument that, “For the possibility of attempting evil suggests that harm (serious or not) is not even a necessary condition for evil after all”, is problematic because attempting to commit a moral wrongdoing suggests that harm is not just a necessary condition, but a central feature. John Kekes’ definition that harm is a requirement runs into the problem of overlapping ambiguity through the use of the phrase “excessiveness”, as Zaibert points out (106).

However, I would argue that attempted harm is a necessary feature of moral wrongdoing, because it is the measure by which philosophers can conclude intent. A display of the intent to harm through the actual attempt to harm provides philosophers with grounds to classify the type of moral wrongdoing committed. If I attempt to shoot my friend sitting next to me as he studies for his developmental biology exam, but miss, I have still displayed my intent to shoot him. Attempted harm, regardless of whether or not it is committed, displays a desire on the criminal's part to inflict pain or suffering on the victim, therefore illustrating a necessary prerequisite for moral wrongdoing.

When a moral wrongdoing has been committed, it is important to consider the blameworthiness of the individuals responsible. With regards to this topic, Zaibert writes:

To say that a certain act was “merely” bad is not to say that it was less blameworthy than an evil act, or that it caused less harm than an evil act: it is merely to conceptually distinguish it from this other form of wrongdoing. We can understand the badness of some acts, and we thus condemn and punish them severely; nothing in our understanding of them prevents us from reacting—on the contrary. But because evil—insofar as it is pointless—defies our understanding, so many thinkers have agonized over what exactly justice demands in its aftermath (108).

I would like to elaborate slightly more on this argument by defining blame. I define blame as responsibility for a certain action. Blameworthiness is the extent to which one can be held accountable for an action. Using this framework I do not contend that the perpetrator is to be held variably accountable depending on the moral wrongdoing committed. Instead, I would like to focus on Zaibert's conceptually distinguishing feature of bad from evil. He argues that

because evil displays certain pointless features that defy conventional understanding, it is difficult to come up with a fitting punishment.

In response, I would state that first, using the framework I have provided, the punishment for an evil action would simply be higher up along the 45-degree line Zaibert presents in his paper (96). For bad or evil actions, which differ by magnitude, punishment ought to vary by magnitude as well, remaining as fitting as possible. Since bad or evil actions differ quantitatively, punishment can similarly occupy a relative scale. If grand theft auto of a civilian vehicle is worth one year in prison, then grand theft auto of a police vehicle would be worth more. In this sense, the retributivist is well equipped to deliver justice.

Second, what I have defined as the sadistic action in my paper is what most closely aligns with Zaibert's definition of evil. I characterized a sadistic action as one that is specifically geared towards adding insult to injury, supervening a previously evil action. Zaibert contends that evil actions are pointless, but perversely strategic. And like Zaibert, I agree that there comes a point where the extent we punish an action reaches a certain maximum. However, unlike Zaibert, I contend that the retributivist need not necessarily grapple with the burden of creating a fitting punishment for the sadistic crime. This is because it is nearly impossible to punish someone for insult to injury. There is no systematically reliable method for quantifying sadistic infractions. The consequentialist is in a better position because their burden is not to create the most fitting punishment. Their burden is to devise the punishment with the most rehabilitative, deterring, or any other beneficial, properties.

By punishing sadistic actions and evil actions similarly, there would be a problem of quantifying the harm inflicted by a sadistic action. Zaibert recognizes this problem and notes that bad and evil actions would be punished equally (110). I propose a different solution: beyond evil

the punishment need not fit the crime. Instead, it must fit the perpetrator. The punishment must be designed to serve non-retributive purposes for the perpetrator, and instead focus on rehabilitation or deterrence. This is because it is deeply problematic to quantify an insult to injury and use a retributive approach to justice. Sadistic actions, and their insult to injury, cannot be measured. In the design of punishment, comparisons of the distastefulness of sadistic actions may not be weighable to the point of practical application. A court cannot state that some insults are worse than others, there is no real way to measure the harm of a perverse insult. I propose that it is in our advantage to adapt to this problem with an approach to punishment that would allow for the application of some justice as opposed to none. I contend that the consequentialist is better equipped to deliver justice than the retributivist for sadistic actions.

By using a consequentialist approach for punishing sadistic actions in conjunction with a retributive approach for punishing bad and evil actions, we can respond with more effective and consistent calculi for punishment. Limiting the tools of justice to only retributive means would ignore the potential benefits of a consequentialist punishment. Rehabilitation and deterrence are valuable ends, and it would be helpful to consider the benefits they may confer to theorists and lawmakers. I argue that while both retributivism and consequentialism are competing conceptions of justice, they hold equal value depending on the context.

Retributive justice assumes that authorities can design a punishment that is reciprocal to the initial crime committed. In fact, Zaibert writes, “A precondition of retributivism, then, is that we *understand* wrongdoing, so as to make the punishment fit it” (96). Under circumstances where a crime cannot be measured, such as a sadistic action, then it is not practically feasible to use a retributive punishment. Using a consequentialist punishment in place of a retributive one for sadistic actions therefore requires an additional set of considerations for evaluating sadistic

actions, and methods for achieving the desired ends (rehabilitation, deterrence, etc.) most effectively.

This entails a closer investigation of the motivation behind the crime committed because sadistic actions capture a conceptually unique form of wrongdoing. This is necessary because first, only through intent can the retributivist learn the motivation for harm. For example, the attempt to add insult to injury could stem from racism, classism, or some other form of hate and discrimination. Understanding the basis of the perpetrator's motivation creates a profile for context in the criminal trial. If Eichmann was not racist, then his position as a lieutenant colonel in the Nazi regime would make less sense. His punishment was framed in the context of his profile as a criminal. This may allow for better-informed decision making within the context of punishment. Second, by understanding intent more closely we can develop a better method of categorizing sadistic actions. It may help the theorist to potentially distinguish between different forms of sadistic actions. For example, seeing the types of sadistic actions performed during the Kristallnacht in the framework of a racist ideology may give further insight into the nature of war crimes committed in, say, the Rwandan genocide. The same intent that drove Nazi generals could be used to understand the intent that drove Rwandan Hutu generals. Third, understanding intent contributes to the development of a better a concept of action. An improved concept is action contributes to punishment theory because only actions can be punished. By understanding actions more thoroughly, punishment may likewise benefit.

One may refute my burden to find intent by arguing that I am presenting an abusive and nearly unattainable goal by trying to discern the motivation of the sadist. However, I would respond that sadistic actions reflect a perversely unique understanding of harm. By transcending merely physical harm, the perpetrator demonstrates his or her willingness (and thus, intent) to

devise a conceptually unique and insidious need to harm their victim. This is sufficient to meet a need to devise intent. By adding insult to injury, the sadist demonstrates a unique method to, and understanding of, harm.

For example, it was not simply an accident that Eric Harris and Dylan Klebold, during the Columbine Shooting, called one of their victims the N-word, stating that his life was meaningless seconds before their murder. There was a perverse strategy to it, and it helps the retributivists to understand the intent behind this strategy. It may help the formulation of a more fitting punishment by profiling the criminal. Harris and Klebold displayed minimal regard for human life as they indiscriminately shot their peers¹¹.

The burden, therefore, for punishment theorists is not to devise the punishment to fit their insidious nature of their sadistic actions, but to understand the cogs and gears driving the thinking that led to it. In this sense, the punishment doesn't fit the crime, but the sadist. Therefore, the punishment would be that the sadist, as opposed to the evil perpetrator, would have to spend time explaining their thinking and reasoning behind their need to provide insult to injury. This position has several problems, but I am prepared to deal with them accordingly.

After questioning the criminal and discerning the motivation for his or her actions, I ask the retributivist to spend his or her time trying to understand the thoughts and behaviors that lead to the need to provide insult to injury. I agree with Zaibert that there is no real solution to coming up with a fitting crime for sadistic (or evil as he would say) actions. Instead, I ask the retributivist to spend their time elsewhere, in areas where their efforts are more likely to accrue valuable findings for future use. By understanding the thinking behind sadistic actions, we are in a better

¹¹ National Geographic. "Columbine". The Final Report. Season 1. Episode 9.

position to potentially prevent future instances of sadistic actions, or at least approach them more effectively.

Before going on to this, I would like to address Zaibert's other argument regarding the criminal's purpose in performing evil actions:

My view can accommodate both evil acts of agents who aim at the bad for its own sake (say, de Sade), and the evil acts of drab bureaucrats (say, Arendt's Eichmann). In pursuing bad for its own sake, sadists, *ex hypothesi*, exhibit great pointlessness—it is hard to wrap one's mind around acting *only* in the pursuit of pain. (Artists, in contrast, can be said to desire beauty for its own sake, but this would not be thereby pointless: since beauty is good, there is always a point in producing it—we certainly can understand someone devoting her life to producing beauty.) In caring for bureaucratic minutiae to the extent that it numbed his sensitive to harrowing human suffering, the actions of Arendt's Eichmann also exhibit great pointlessness (109).

Insofar as the criminal's actions inflict harm on the victim, it is important to distinguish between different forms of harm: pain versus suffering. It is important to make this distinction because understanding the type of harm the criminal wanted to inflict on the victim may give insight into his or her motives. I would argue that pain is primarily physical whereas suffering has both physical and emotional connotations. The sadistic action is not simply limited to pain, because its effects go beyond the physical and seem to insidiously target the psyche. The sadist's actions, therefore, inflict suffering by adding insult to injury. This illustrates that the criminal may be motivated by a need to harm their victim psychologically. I iterate that these are purely theoretical considerations, and do not claim to have performed rigorous case studies to support

these claims. However, they may point to potential motives for the criminal. In this sense, an understanding of the potential motives of the criminal may allow for consequentialist punishment with more effective rehabilitative or deterring effects.

The sadist may not perform his or her actions for the sole purpose of inflicting suffering. In fact, their actions may serve a practical purpose as well. For example, as Zaibert describes, the Nazis told incoming prisoners that they were going to the showers, and that they should remember the stall in which they placed their clothes. This distraction would increase the likelihood of their compliance as they unknowingly walked straight into their death chamber (107). In contrast, in some instances, sadistic actions may not fulfill any particularly intelligible purpose other than inflicting pain for personal pleasure. For example, Eric Harris and Dylan Klebold harangued one of their victims, an African-American male, as he hid beneath one of the tables in the Columbine High School's library. They hurled several racial slurs at him just before committing their murder. This sadistic action seems to have fulfilled no practical purpose if their original goal was to *only* kill their peers. It is from this framework that we can devise two different forms of sadistic actions: strategic and perverse. Strategic sadistic actions fulfill a higher purpose and fit within the framework of a higher goal; the Nazis mislead their prisoners in order to increase compliance. Perverse strategic actions are done for twisted pleasure, and nothing else; Harris and Klebold simply wanted to humiliate their victim before performing their execution.

Furthermore, I would like to address the topic of negligent action. Acts are considered negligent when one does not care about something for which they should have cared. If one does not care about the act, then they are negligent. In this case, I make an appeal to an objective standard: a reasonable person. While there may always be individuals that do not care about the

consequences of their actions, I will assume that most people do care about the effects of their actions. Some may argue that this is an unreasonable assumption, but it would be unfair to hold my theories to the standard of individuals who continually disregard actions for which most people would express some level of concern.

One may argue that I am simply making a cosmetic change to Zaibert's arguments. What he would label as evil, I would label as sadistic. We both make a commitment to the idea of the conceptually unique nature of this harm. However, in contrast to Zaibert, I do not believe that a perverse pointlessness is the preferable method for distinguishing between bad and evil actions. I argue that the magnitude of harm plays an important role in classifying wrongdoing. John Kekes also contends that the difference between bad and evil actions is magnitude. For him, the crucial element to distinguish between bad and evil actions is the magnitude of the harm¹². In a certain sense, I have outlined a position that strikes a middle road. While I argue that the difference between bad and evil actions is a matter of recovery, this idea still aligns with Kekes in the sense that I am discussing quantitative differences in harm. However, actions that insult the victim in the context of an injury fulfill a conceptually distinct form of wrongdoing, and are sadistic actions.

My method of distinguishing between bad, evil, and sadistic actions may combine the benefits of both positions without their potential limitations. While Zaibert's distinction between bad and evil focused exclusively on a qualitatively unique form of wrongdoing, it did not allow for an effective comparison for how harmful these actions were. In contrast, Kekes' distinction between bad and evil focused exclusively on a quantitatively unique form of wrongdoing. Nevertheless, both positions reflect important considerations for morally reprehensible actions.

¹² John Kekes. *Facing Evil*. Princeton, NJ: Princeton University Press, 1990), 45 and passim. Taken from Zaibert "Punishment Theory Meets the Problem of Evil". See 7.

-Chapter 3-

Punishing Badness, Evil, and Sadism

The difference between a strategic and perverse action forms the basis for my theory of how to punish bad, evil, and sadistic actions differently. I contend that bad and evil actions can be punished on a scale to fit the magnitude of the infraction committed. For bad and evil actions, the punishment ought to be retributive because retributivism focuses on a punishment that fits the crime. Insofar as my measurement of harm is directly correlated with the ability of the victim to recover, then the retributivist is in a better position to quantify harm. Since retributive justice relies on the ability of the philosopher to measure the magnitude of the infraction and design a punishment with equal reciprocity, then this form of justice is more appropriate for a bad and evil response.

In the case of sadistic actions, the theorist must create a profile of the criminal and determine the deep-rooted basis of their intent and motivation. This is because the philosopher cannot quantify magnitude of the harm caused by a sadistic action. This cannot be done because first, an insult to injury is a physical action with psychological repercussions. For example, by burning my friend's corpse and mailing the ashes to his family, I have committed exclusively physical actions, but the effects on his family would go far beyond his actual murder. There is an insidious intent to not just harm, but cripple, the victim both emotionally and psychologically. It is because of this disturbing intent that the philosopher cannot be limited to an exclusively retributive punishment. It would not be possible for him or her to measure the suffering from being sent, say, the ashes of a family member. Thus, we ought to resort to other tools that may allow for a punishment that would still serve some purpose.

Some may argue in response that I cannot use two different approaches to criminal justice in order to punish the individual: retributivism and consequentialism. This is because I would be using a definition that suits my purposes in some instances, switching to another definition in other instances when it becomes too difficult to defend the previous definition. For bad and evil actions I support a retributive punishment because that seems easier, and for sadistic actions I support a consequentialist punishment because that seems easier.

In response, I argue that this criticism assumes that is unfair to use two definitions of justice. I propose the opposite: it is in the theorist's interest to consider multiple definitions of justice when designing a punishment. Under different circumstances, we cannot expect a singular definition of justice to work most effectively. Using this approach, I view different definitions of justice (retributivism and consequentialism) as tools in a toolbox. To solve a certain type of problem, it is preferable to use a screwdriver rather than a wrench, and when facing another type of problem, the opposite may be the case. To limit oneself exclusively to a one-tool-fits-all philosophy may hinder our ability to punish the criminal most effectively. And my goal in this paper is to develop an approach that allows the punishment theorist to better distinguish between different types of moral wrongdoings, allowing for a more appropriately designed punishment. Just as we do not hold reprehend the mechanic for using different tools to fix different problems, we ought not do the same for the philosopher.

I therefore propose that the punishment for sadistic infractions should be consequentialist in nature. In the case of a sadistic action, we are in a position to punish the criminal in a way that serves rehabilitating or deterring purposes. For example, if an individual murdered another person because of his or her skin color, and burned the corpse, then the evil action would be the

murder and the sadistic action would be the decision to burn the corpse. Thus, to fit the crime of murder, the criminal would serve 25 years to life.

Zaibert states that the retributivist is troubled to find the most fitting punishment for these conceptually unique wrongdoings. He writes:

“It should then be clear why assuming that evil is an independent form of wrongdoing poses a problem for retributivists and not for consequentialists. For only retributivists wish that there be a *fit* between wrongdoing and our response to it, and it is unclear what would be a fitting response to evil. It is not even clear whether the talk of desert is intelligible in the case of evil—for we are after all assuming that evil and bad are really different” (97).

Therefore, he places himself in a position that allows for a consequentialist response. However, one problem with his argument is that he states that retributivists are the only theorists *decisively* concerned with justice because they are the only ones interested in quantifying or measuring harm, and then designing a reciprocal punishment. The problem with the consequentialist according to Zaibert, then, is that insofar as he or she does not care about understanding the crime in order to design an appropriate punishment, then he or she is not truly concerned with justice. They do not care about truly understanding the crime because they are only concerned with, say, rehabilitative or deterrent effects. To this I respond that the consequentialist may be just as, if not more, concerned with understanding justice than the retributivist. This is because the consequentialist, in order to design a punishment with rehabilitative or deterring properties, has to delve into the psychology of the criminal in order to understand why they committed their crime and design a punishment that would rehabilitate them from the ill will that drove them, or deter them from believing that the cost of their crime outweighed the benefit of not committing it

at all. To punish the sadistic action, however, the criminal would receive rehabilitative or educational “punishment”. In this sense, only the consequentialist position is capable of decisively dealing with sadistic infractions. By providing a rehabilitative punishment for the sadist, the consequentialist targets the psychology of the criminal whereas the retributivist may become frustrated trying to devise a truly fitting punishment. The consequentialist delves deeper into an investigation of intent than the retributivist, creating a rehabilitative, deterring, or educational program for the criminal.

Consider the individual who tortures animals for no reason. This person douses dogs in gasoline and proceeds to light them on fire. The retributivist would be concerned with measuring how much harm the criminal has inflicted, and appropriating a punishment that would be equivalent. The consequentialist, in order to rehabilitate this twisted individual, would have to understand why they found pleasure in setting animals on fire in order to develop a punishment that would rehabilitate them of this desire to harm innocent animals. This is just one example that I propose could illustrate how the consequentialist would be just as decisively concerned with justice as the retributivist. Understanding the psychology of the criminal and developing a profile seems to be just as burdensome a task as trying to measure the quantity of harm inflicted. I do, however, argue that the retributivist is indeed equipped with the tools to handle some situations more appropriately than the consequentialist. The retributivist is in a better position to punish bad and evil actions because these actions vary simply by magnitude. Magnitude is within the realm of a retributivist punishment because it is quantifiable and measurable on a relative scale. For wrongdoings that are conceptually unique and un-measurable, then the retributivist has the unresolvable burden of creating a fitting punishment for a crime that cannot be rightly understood.

Therefore, in my program I contend that by understanding the criminal's intent as closely as possible, a profile of his or her personality and, by extension, motivations can be constructed. This profile places the consequentialist in a position to devise a program for, say, rehabilitating, or deterrence. For the consequentialist, this program will meet their definition of punishment, because it brings about a positive consequence.

Zaibert states that, "By focusing on desert, the retributivist makes short shrift of consequentialist considerations: beyond the very act of administering justice, she does not care much about the good consequences that punishment may bring about. The retributivist cares little about rehabilitation, deterrence, incapacitation, etc. The retributivist is not, *ultima facie*, necessarily opposed to achieving these other ends, but she thinks that they do not play too crucial a role in the justification of punishment itself" (96). The problem with this argument, however, is that it concedes that good consequences play a somewhat crucial role in the justification of punishment. This means that in my proposal for a new framework of punishment, the bad and evil actions can be punished with a retributivist method. The punishment should fit the infraction as closely as possible. But the sadistic action, which Zaibert admits poses a genuine conundrum for the retributivist, should be punished with a consequentialist method. Since Zaibert admits good consequences play a crucial role (albeit minor) in justifying a punishment, then according to his position, he may not object to this proposal.

Furthermore, no individual is wholly angelic. Humans eventually commit wrongdoing at one point or another. Zaibert writes that, "consequentialists think that what justifies punishment is not that it is deserved but that it brings about some good ulterior consequence, such as incapacitation, rehabilitation, and deterrence" (96). For the person who commits a sadistic action, it would be highly advisable to undergo a punishment that brought a positive consequence. One

of the differences between the normal person who commits a bad action at some point, and the criminal who commits an evil action followed by a sadistic action is mental health. To punish the sadistic actions of an individual in order to rehabilitate or deter him or her ought to be sufficient justification for punishment.

The proposal I have outlined for a new approach to punishing bad, evil, and sadistic actions involves a unique approach to analyzing action. The retributivist is interested in designing a punishment that fits the magnitude of the infraction committed whereas the consequentialist is interested in designing a punishment that, say, has rehabilitating or deterring effects. These two approaches to punishment interact differently with my theory of action. It is important for punishment to be designed with a theory of action in mind because it gives further insight into the action committed, and the nature of the crime itself. Therefore, understanding how an action is generated may help a decisive application of justice. And by justice, I mean the use of guiding principles to correct the imbalance of a moral wrongdoing. The retributivist would view this guiding principle to be that of fittingness while the consequentialist would use guiding principles of, say, rehabilitation or deterrence. Since actions form the basis of punishment, a concept of action may help the design of more effective punishments. In the beginning of this paper, I defined action as an event that is sequenced in the order of reflection and execution, reflection as the thought relating to the possible consequences of action before execution, and execution as the series of movements that collectively carry out the action.

The retributivist punishment for bad and evil crimes focuses on the execution of the action. This is because execution is the actual manifestation of the crime. This moral infraction results in an imbalance in the existing state of affairs, and it is the retributivist's burden to restore this balance with a fitting punishment. Since the retributivist is concerned with the most fitting

punishment, they will focus the design of their punishment with the execution in mind. For example, the magnitude of the action, the way it was performed, the effects the action had on others, are all considerations for the retributivist.

In contrast, the consequentialist punishment for sadistic crimes focuses on the reflection of the action. Reflection is thought relating to the possible consequences of an action before execution. During reflection, the criminal may have weighed the potential consequences of his or her crime, and decided that the benefit (personal satisfaction) was greater than the cost (punishment). Reflection is only incorporated into the action if the action is performed. Since the consequentialist is concerned with, say, rehabilitating or deterring effects of punishment, then he or she will focus the design of their punishment with the reflection in mind. For example, the thoughts that led the criminal to perform the action, the criminal's thoughts during the action, how his or her personal background may have led to behavior conducive to this type of crime, are all considerations for the consequentialist.

In this sense, neither the retributivist nor consequentialist has a higher claim to approaching action and therefore punishment more decisively. While the retributivist is more focused on the execution of the action, the burden is to understand the mechanics and effects of the action in order to respond with an equivalent punishment. And the consequentialist is more focused on the reflection component of the action, developing an understanding of the criminal's intent in order to provide a punishment with a positive ulterior consequence, such as rehabilitation, deterrence, or education.

Conclusion

In this paper, I have considered the potential for actions to be analyzed in terms of the thoughts that lead up to them (reflection) as well as their physical manifestation (execution). Moral wrongdoings can be classified as bad, evil, or sadistic actions. Bad and evil actions are assessed in terms of their magnitude. The magnitude of a crime is measured in terms of the ability of the victim to recover. Bad actions inflict transient or temporary harm whereas evil actions inflict long-lasting or permanent harm. Bad and evil actions comprise one conceptually distinct form of wrongdoing. These actions are primarily painful, and are not performed with the specific intent of causing suffering. Pain is primarily physical whereas suffering is both physical and psychological. Sadistic actions comprise another conceptually distinct form of wrongdoing. Sadistic actions are performed in the context of a bad or evil action in order to add insult to injury. They are insidious in their inventiveness and cannot be measured in terms of magnitude. In order to punish bad, evil, and sadistic actions, I propose the use of a retributivist punishment for bad and evil actions and a consequentialist punishment for sadistic actions. Retributivism is more effective for assessing the magnitude of the crime and designing a fitting punishment, making it better suited to deal with bad and evil actions. In contrast, sadistic actions cannot be measured; thus, consequentialism is a more effective tool for understanding the cause of the crime and designing a punishment that rehabilitates or deters the criminal from future crime.

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