

PLATO'S VIEWS ON CRIME AND PUNISHMENT

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The immensity of the task I undertook, namely, to venture into the philosophy of Plato regarding his views on crime and punishment, only struck me the moment I started researching his relevant works. Therefore, right from the outset, I need to admit that it is a mammoth task, an assignment of monumental proportions. Furthermore, I do not profess to have a thorough knowledge of all his works in the original Greek, and I need to admit that I can only endeavour to speak as a criminologist with psychological background attempting to unravel the views of a legendary philosopher. Some might say an exercise in futility, but as the Greeks used to say, "*Giraskw aei didaskomenos*", meaning, I always keep on learning while I grow old.

Mr chairperson, Ladies and Gentlemen, to define crime is a thorny issue. The most precise and least ambiguous definition of crime is: "The act which is prohibited by the criminal code".

There are two popular legal definitions of crime:

1) According to the first definition: "Crime is what the law says it is". This simple, but evasive definition, neither enhances our knowledge nor understanding of crime.

2) The second legal definition defines "crime" as: "An act or omission punishable by law". The second definition has the advantage of being objective, clear and concise. It does not suffer from the ambiguity that characterises most sociological definitions of crime, but it raises a number of challenges. Without going into too much detail into the various problems, we can state that the legal definition of crime does not explain why certain types of behaviour are singled out, defined as criminal and made punishable by law, while other similar or even identical forms of behaviour are left uncriminalised, and consequently unpunishable. Please bear in mind that there are also political definitions of crime, psychiatric definitions of crime, sociological definitions of crime and, of course, there is also the criminological definition of crime which is quite

broad, namely: "Crime is any antisocial act even an act which is not pronounced as crime by a court of law".

Plato has adopted and adapted, abandoned or expanded and generally redetermined (or reascertained) and reshaped a vast range of criminological ideas and practices in such a way as to combine intense conservatism with radical innovation. As a political craftsman, he has skilfully, systematically and on the whole successfully utilised the material that lies to hand, to answer his own purposes.

In his book the *Laws* as well as in other works of his, Plato propounded a radical new penology, distinctly unconventional from any penology practised or supported in his day. The notions and practises which he attempted to revise or replace were those of the Athenian legal system of the fifth and fourth centuries. Of course they have their first substantiation or confirmation in Homer.

In Homer, the concept of punishment is shifty and for many years endeavours to define it, centred on five criteria:

Primarily, for an act to qualify as a punishment:

- 1) It must be an evil, a repulsive alternative to the victim.
- 2) It must be for an offence.
- 3) It must be of the offender
- 4) It must be the work of personal agencies.
- 5) It has to be imposed by virtue of some special authority, granted through or by the institutions against the laws or rules of which the offence has been committed.
- 6) The repulsiveness should be an integral part of what is intended and not simply incidental to some other aim.

How can punishment be described in Homer? Homer himself has no single comprehensive word for it. What he did recognise was suffering inflicted on an offender for an offence, either as something associated with a person's "*timi*" meaning honour, esteem, respect - restoration, or as itself constituting the restoration. He described the many specific means by which this suffering was caused, and the various forms it could take. Likewise, he has no single term for "reward" in the general comprehensive sense of "good done to doer

of good in return for good done"; he has only a series of particular concrete ways in which people are rewarded. He does not either use vague adjectives to depict the character or purpose of "suffering inflicted on an offender for an offence". He recognises that, in its numerous appearances, it can be retributive or deterrent, or both. It is factual that certain academics profess that punishment does not exist in Homer "as we know it". It is certainly so, because its institutional forms have been transformed fundamentally, but it exists. In particular, the restraints and rulings that face the punisher in Homeric society are evident anticipations of the disputes regarding punishment that emerged later. Greek penology indeed starts in Homer.

Plato recorded many eschatological myths aimed at rendering an incentive to good conduct, and to encourage afflicted parties that in the final analysis, they will obtain at least the satisfaction of their enemies' suffering. Hence, the punishments described are of retributive nature and are frequently described in vivid terms. The aim of Plato's myths was to convince those persons engaged in dialogue with Socrates that injustice will be punished in the end.

In *Gorgias* 474ff. Socrates elucidated that doing wrong is worse than suffering it. The same principle is carried further in 476a to show that evildoers who escape punishment are more pitiable than those who undergo punishment - consequently demonstrating that punishment is of value to those individuals punished.

1. Paying the penalty (*dikin didonai*) means the same thing as being punished justly (*dikaios kolazesthai*).

2. To every agent there corresponds a patient.

3. The patient will be such as the agent makes it.

4. The effect on the patient may be qualified in exactly the same way as the act is qualified.

5. The man who punishes rightly (*orthos*) punishes justly.

6. So the punisher does just things, and the punished one suffers just things.

7. All just things are fine.

Of two fine things, the one is finer which exceeds the other in pleasure or benefit, or both. Likewise, of two shameful things, the

one is more shameful which exceeds the other in pain or harm or both.

8. It would be absurd to assume that the person who suffers a just, and so fair punishment, enjoys a pleasure.

9. So the just punishment is fair because it accords a benefit.

10. Therefore the victim of punishment derives benefit from it.

The question may be raised concerning justice. By stating "just punishment", does Plato mean what is required urgently in accordance with the law, or in accordance with our moral intuitions? Clearly, the two need not be the same. A second question concerns what is legal. If Plato is discussing legality, does he refer to genuine laws, as he obeyed them, or to an ideal legal or penal code? We can venture to suggest that he is not referring to a genuine legal system, for it is quite improbable for him to be in favour of the system that was responsible for the death of Socrates. Hence, the penalty paid by the wrongdoer must be imposed by some legal ideal or penal code. In other words, the discussion of justice in the argument at *Gorgias* 476 exhibits an ambiguity between what is legal and what is moral, between what is ideal and what is actual with regard to legality, and between what is specifically retributive and what is normally right with regard to morality. A correct interpretation should thus be that Plato is of the opinion that a ideal legal/penal system, would not represent stern retribution, but a more powerful morality, the morality of charity or magnanimity. Why should punishment be the best means to communicate or bring across this charity? The answer to this is that, Plato assumes that punishment is a necessary institution in all societies but it can be morally justified only if it is restorative, hence it must have restorative value.

With regard to punishment as an advantage, Socrates at 478 recollects the classification of arts. The art of financing may eliminate poverty, and the art of medicine may cure disease. The worst evil that a man can suffer, however, is neither material nor physical misfortune, but psychiatric or psychological disorder, which should be rectified by the art of justice (*dikaiosisune*). As human beings are taken to the medical practitioner to find cure, so the evildoers must be taken to a judge so that they may pay the penalty. For justice (*dike*) helps a man to get rid of injustice and wickedness. According to the body/soul analogy, punishment is the medicine of wickedness - painful, but practical to bring about healing. Therefore,

when it succeeds, it makes human beings more prudent and just. They should not, therefore, avoid punishment, as is commonly advised; on the contrary, they should seek it out, as when consulting a doctor. Evading punishment is the action of the uneducated man, who does only what seems best to him and fails to find happiness. Plato comes to the fore as a strong supporter of the rehabilitative value of punishment by utilising the following principles:

1. Virtue is happiness.
2. An analogy may successfully be outlined between body and soul.
3. To possess a criminal disposition is both necessary and sufficient for behaving in a criminal way, that is, committing crimes.

It should be kept in mind that Plato is more interested in criminality than in crimes. Notwithstanding his view here, in order to emphasise the paradox regarding punishment, requires that the man with the disordered soul be punished for his crimes -committed due to his disordered soul- and thereby rehabilitated.

As to the method of reform or rehabilitation, Plato believes that the criminal will become more *sophron*, self-controlled. *Sophrosune* is the virtue of restraint enacted from outside, so this would be a matter of control or inhibition. Self-control may be achieved by enforced practice, or in an extreme form, by conditioning, where the responses of the subject are manipulated in order that he will behave in the appropriate way. Education is also proposed since the criminal will evidently become more just. This means that he will procure a moral skill, which is knowledge and is thus passed on by educative means. The process whereby a man becomes more self-controlled and more just, therefore, must combine restraint and education. Plato describes this process as analogous to remedial treatment.

The most transparent formulation of the theory of punishment in the book of *Gorgias* appears in the eschatological myth at the end of the dialogue. At 525ff Socrates elucidates on what he understands to be the correct function of punishment. The criminal is either to be improved (*beltion gignesthai*) and thus to benefit, or he is to serve as an example to others who may be frightened by his suffering and be themselves improved thereby. Those who benefit by punishment, whether it be human or divine, are those who have committed crimes which can be remedied; only through pain and

suffering can they be helped and disentangle themselves from their evil. But those who have committed severe crimes are irreparable and thus no longer susceptible to benefit. Therefore, they serve as examples to others, who see their eternal pain and are better advised (*nouthetemata*, 525c8). Consequently these others derive benefit.

In his famous speech in the *Protagoras*, Protagoras attests to the universal belief that virtue is acquired not by nature or by chance, but by teaching and practice (*epimeleia*). As to the function of punishment, he states that no one punishes a wrongdoer with a view to the offence itself, or merely as a reaction against the offence, unless he is retaliating wildly and without reason. This would make no sense, since the offence cannot be undone. Sensible punishment, nonetheless, looks to the future by preventing the offender himself from repeating the offence and by deterring others from imitating him. So the purpose of punishment is to prevent others from doing evil (*apotropes heneka*) and to teach men virtue. This is the function of punishment, both publicly and privately. Justice, prudence and morality, all of which safeguard the state, should be proclaimed to all men, women, and children by education and punishment until they improve. But the man who opposes education and punishment should be attended as irreparable, and exiled or put to death.

Protagoras' theory is comparable to Plato only in its cosmetic detail. The dialogue as a whole reveals that on three important points which render the ethical background to the reformatory penology, the two men differ. *Firstly*, Protagoras presents the theory as a confirmation of his belief that virtue is teachable. According to Socrates, however, he is mistaken on the following two counts: Protagoras imagines virtue to be a mixed collection of qualities and fails to grasp that virtue is knowledge. Thus, although he maintains to teach virtue, he does not know what virtue is. According to Socrates, the theory of punishment should function not by the teachings of the sophists, but by the methods of dialectic. *Secondly*, although both Protagoras and Plato are interested in the disposition or makeup of the criminal rather than exclusively in the crimes committed by him, they consider the consequences of criminality in a different light. While Plato justifies the imposition of capital punishment on the incurable criminal primarily on the grounds that he can no longer benefit from living, Protagoras, although silent on the justification of the death penalty, would cite as instance the general importance of the preservation of the state. *Thirdly*, the first

stages of Protagoras' argument contradicts one of the major principles of Socratism. Protagoras assumes that men are culpably vicious and therefore anger towards them is appropriate (323d). Socrates, on the other hand, maintains that no one does wrong willingly. Therefore, as Plato will claim (*Laws* 731c), society should have pity on the criminal. Hence Plato's philosophy of punishment in Protagoras can be summed up by the two Socratic paradoxes: "Virtue is knowledge" and "No one does wrong willingly", combined with another Socratic principle in *Gorgias* that virtue is in the interests of the individual. Thus, if the definition of virtue can be grasped, unlike Protagoras, society will be able to understand the function of punishment. Furthermore, if persons understand that virtue is in their interests and not merely in the interests of the group to which they belong, then they will have an effective justification for the reformatory system, which affords the means of securing happiness.

In Plato's book, the *Laws*, the concept of punishment is introduced by the prudential argument (726ff). A man's soul is his most sacred possession, but he is predisposed to give in to the flattery of pleasure and by so doing causes harm to his soul. Thus, a man may deny responsibility for his evil deeds, contemplating wrongdoing to be advantageous, although in fact it is harmful. Hence, lawbreaking actively works against people's interests. Human beings do not seriously consider the greatest justice for bad conduct; namely that the offender will be assimilated to bad men and like them will flee the company and the conversation of the good. As a result of this, he will deal with others as bad men naturally do, and suffer as they do at the hands of others. Ultimately, he will become extremely miserable, either failing to find a cure for his evil, or passing away in order that others may be saved. But his execution cannot be called justice, because justice is a fine matter, but *timoria*, the undesirable consequence of wrongdoing. The process described here has the following stages. First the person neglects his soul and this leads him into the company of bad men, which, in turn causes him to emulate their behaviour. Then he is faced with the normal or natural consequence of wrongdoing, namely, execution for the preservation of the state. But even if he survives, he is miserable for he never finds cure for the evil in his soul.

In conclusion, a summarised version of the three aims of punishment namely restitution, deterrence and reform as viewed by Plato. Restitution is merely a restorative process preliminary to

punishment. The problem of responsibility is left for the theory proper, where Plato promises to deal not with damage but with injustice. Thus he deals with the effects of crime without damaging man's central intuitions about the penal procedure itself.

As to his deterrence theory, the execution of the unrehabilitated offender appears to be in line with reform and has two elements in its justification. Either the criminal is no longer able to benefit from life, or more positively, he is harmed by continued existence, by implication from the positive wretchedness of the physical incurable. Additionally, by his suffering the criminal may benefit others, mainly by deterring them from emulating him, and also by removing his own evil influence from them. Consequently, his punishment either benefits both himself and others, or it is of no harm to him and a benefit to others. Plato is cautious to point out, however, that only when the criminal is considered incurable, and no longer in a position to be rehabilitated, may he be used for deterrent purposes.

Finally, reform is the main thrust which may be disregarded only when it cannot be effective. It is to be supported on individualistic, philanthropic grounds and it reveals goodwill towards the individual criminal. This does not mean that Plato ignores the interests of the society as a whole, for the key is to be found in his view of the prudence of virtue as compared to the recklessness of corruption. Virtue, the very disposition of the soul is in itself a good, whereas its opposite, namely criminality is intrinsically evil. But those who pursue this evil do so involuntarily and so are not to be blamed, but pitied, since they are actively involved in the greatest misfortune despite themselves. Thus, from the individualism and the exculpation which are both central to Plato's moral theory, there emanates a complex humanitarian penology which has, within that theory, considerable scope for sanction in current modern thinking.

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