POLSKA AKADEMIA NAUK • INSTYTUT NAUK PRAWNYCH

ZAKŁAD KRYMINOLOGII

ARCHIWUM KRYMINOLOGII

Archives of Criminology

PL ISSN 0066-6890

DOI 10.7420/AK2023.13

2023 • 45(2) • 15–28

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A penology for Europe[1]

Penologia dla Europy

Abstract: On 22 March 2016 Belgium suffered a severe terrorist attack on its national airport, in Zaventem, close to Brussels, and the Maelbeek metro station. Thirty-two people were killed that day. Another 340 victims, some of whom suffered particularly serious injuries, will carry the scars for the rest of their lives. Such terrorist attacks, in the heart of Europe, pose an enormous challenge, one that goes beyond the role of the police and the judiciary or questions about the design and security of open or semi-open spaces, such as markets, metro stations, concert halls, nightclubs or airports. In addition to prevention and criminal investigation, there is also the question of the appropriate response when the perpetrators or their accomplices are caught. What is an appropriate punishment in such a context, for such awful offences? How long do we need to punish? And for what purpose do we punish? In this article we offer some reflections on these questions. We argue that the question of how to respond to crime – crimes of all kinds – should not be narrowed down to how we can impose "deserved" pain or how we can reach the goals of punishment more effectively; no, we should rather broaden it to the question of how we can strengthen and affirm our values and ideals through our response. "In figuring the equations of punishment … we cannot hold the punisher constant", as James Whitman (2003) wrote in "Harsh Justice". Punishment is not just about the defendants in the dock: it concerns us all, it affects us all.

Keywords: acts of terror, punishment, penal law, European penal identity, penology

[1] This article is an extended version of a lecture I gave on 21 October 2022 at the conference called "Changing Penologies and European Crime Policy: Theory and Practice in the Global Context", which was organised for the 15th anniversary of the European Centre for Penological Studies and the 50th anniversary of the Institute of Social Prevention and Resocialization, at the University of Warsaw, Poland. I am grateful to Professors Jadwiga Królikowska and Jarosław Utrat-Milecki for their kind invitation and hospitality. The article summarises, revises and elaborates on some ideas I first developed on the occasion of my inaugural lecture at KU Leuven (January 2017) and an online lecture I gave during the COVID-19 pandemic for EmpiriC (Barcelona) (in December 2020). Parts of this article were previously published (in Dutch) in the expanded version of that inaugural lecture (Daems 2017a) and (in Spanish) in a blog post on my website, www.tomdaems.com.

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Abstrakt: 22 marca 2016 roku Belgia doświadczyła poważnego ataku terrorystycznego na swoim krajowym lotnisku w Zaventem, niedaleko Brukseli, oraz na stacji metra Maelbeek. Tego dnia zginęły 32 osoby. 340 inne osoby poszkodowane, z których część odniosła szczególnie poważne obrażenia, noszą w sobie te doświadczenia przez całe życie. Takie ataki terrorystyczne, w sercu Europy, stawiają ogromne wyzwanie – wyzwanie, które wykracza poza kompetencje policji i wymiaru sprawiedliwości. Prowadzą też do pytania o projektowanie i zabezpieczanie otwartych lub półotwartych przestrzeni, takich jak targowiska, stacje metra, sale koncertowe, kluby nocne czy lotniska. Oprócz prewencji i postępowania karnego pojawia się również pytanie o właściwą reakcję, gdy sprawcy lub współsprawcy zostaną zatrzymani. Jaką karę uznać za odpowiednią w takim kontekście, dla tak straszliwych przestępstw? Jak długo musimy karać? I w jakim celu karzemy? W tym artykule przedstawimy refleksje na ten temat. Twierdzimy, że pytanie o to, jak odpowiedzieć na przestępstwo – przestępstwa wszelkiego rodzaju – nie powinno być zawężane do tego, jak możemy zadać „zasłużone" cierpienie lub jak skuteczniej osiągnąć cele kary. Przeciwnie, raczej powinniśmy poszerzyć je o pytanie, jak możemy wzmocnić i potwierdzić nasze wartości i ideały poprzez naszą reakcję. „Przy wymierzaniu kary (...) nie możemy trzymać kary stałej" – napisał Jim Whitman (2003) w „Harsh Justice". Kara nie dotyczy tylko sprawców na ławie oskarżonych – dotyczy nas wszystkich, wpływa na nas wszystkich, jako Europejczyków.

Słowa kluczowe: akty terroru, kara, prawo karne, europejska tożsamość karna, penologia

1. Punishing acts of terror

On 22 March 2016 Belgium suffered a bloody attack on its national airport, in Zaventem, close to Brussels, and on the Maelbeek metro station. Thirty-two people were killed that day. Another 340 victims, some of whom suffered particularly serious injuries, will carry the scars for the rest of their lives. In fact, three of those surviving victims passed away afterwards, which brings the death toll to 35. Such terrorist attacks, in the heart of Europe, pose an enormous challenge that goes beyond the role of the police and the judiciary, and beyond questions about the design and security of open or semi-open spaces, such as markets, metro stations, concert halls, nightclubs or airports. In addition to prevention and criminal investigation, there is also the question of the appropriate response when the perpetrators or their accomplices are caught. What is an appropriate punishment in such a context, for such offences? How do we need to punish? And for what purpose do we punish?

In the wake of such acts of terror, the arsenal of punishment at our disposal seems both powerless and insufficient. As an instrument, punishment is powerless: deterrence does not work for those who are willing to die for their ideals or who are brainwashed by empty promises about willing virgins; incapacitation via deprivation of liberty seems useless when confronted with suicide terrorism, where self-destruction is part of the entire operation, and even the world's most renowned terrorism experts will have to acknowledge that achieving deradicalisation through ready-made programmes is often illusory. So where do we stand with our goals for re-education and reintegration? Jeremy Bentham once suggested

that a punishment that serves no purpose or is unfounded should not be imposed; after all, such a punishment cannot be justified:

> [A]ll punishment is mischief: all punishment in itself is evil. Upon the principle of utility, if it ought at all to be admitted, it ought only to be admitted in as far as it promises to exclude some greater evil. It is plain, therefore, that in the following cases punishment ought not to be inflicted. (1) Where it is groundless: where there is no mischief for it to prevent; the act not being mischievous upon the whole; (2) Where it must be inefficacious: where it cannot act so as to prevent the mischief; (3) Where it is unprofitable, or too expensive: where the mischief it would produce would be greater than what it prevented. (4) Where it is needless: where the mischief may be prevented, or cease of itself, without it: that is, at a cheaper rate. (Bentham 1780: clxvi-clxvii)

Should the utilitarian conclusion in such cases then be that we should not punish at all?

But punishment is not only powerless – it is also insufficient. How many years of imprisonment are enough to rectify the injustice or restore the imbalance? What is "just punishment" in this case? No punishment seems able to compensate for the endless suffering and deep human sorrow. Even the most inventive interpretation of the *talio* principle or the most feverish search for "just deserts" will fall short. Should the retributivists then join the ranks of abolitionists like Louk Hulsman, and support the opinion of the latter that the infliction of suffering cannot and should not be an indicator of "a hierarchy of values within a 'national' society"[2] (Hulsman 2011: 28)?

It is sometimes suggested that anyone who wants to stick to the classic penological goals should colour outside the lines when confronted with such acts. And, indeed, when faced with so much human suffering, the retributive and utilitarian justifications of punishment are often questioned. For example, shortly after the attacks in Zaventem and Maelbeek, a Belgian criminal lawyer argued that we should reintroduce the death penalty. "Anyone who wants to destroy society permanently deserves the death penalty. I don't think that's barbaric", said Pol Vandemeulebroucke in a Flemish newspaper. What is the alternative?, so he wondered. "Do you have to put them underground and in a concrete bunker, where they are aired once a day? Without visitors, until they die at 75?"[3](cited in Bergmans 2016). The criminal lawyer created a false dichotomy, of course, because his so-called "alternative" was no alternative: life imprisonment in an underground bunker is not a sanction in the Belgian criminal code – and the same applies to the death penalty. A year before the start of the trial of the attacks, another lawyer, Walter Damen, argued that we should have the trial behind doors. For him, "the favour" (*de gunst*) of a public trial is a fundamental part of our democratic heritage, but he wondered whether it can be justified in all cases.

> For me, they don't need to get a forum. A process behind closed doors also does justice to our democratic values. I fear that otherwise additional harm will be caused,

[2] Author's translation.

[3] Author's translation.

> in this case the destructive consequences of easily created internet propaganda and unjustified extra pain for the victims.[4] (Damen 2021)

There is a great temptation to react in extraordinary ways to extraordinary events. The death penalty seems the only appropriate response for those who want to destroy us. A heavy and punitive prison regime – in a bunker underground – seems justified for those who consider our civilisation objectionable. A trial behind closed doors seems necessary to eliminate the risks of a public trial becoming abused for propagandistic purposes. According to some, we should therefore develop an "enemy criminal law" (*Feindstrafrecht*) – the term was coined by the German academic criminal lawyer Günther Jakobs (2004) – for the enemies of society: a separate track of criminal justice that can be distinguished from "civilian criminal law" and where a more appropriate response to such exceptional events can be developed (see e.g. Gómez-Jara Díez 2008; Ohana 2014). That is also what the first criminal lawyer quoted above seems to be aiming for. After all, we are dealing here with

> another category of crime … that is at odds with criminal law. Terrorists with one hard drive and one indelible goal to destroy society: you cannot just let them back into society. For that group I have no moral problem with introducing the death penalty.[5] (cited in Bergmans 2016)

2. Towards a richer understanding of punishment

Such pleas to colour outside the lines raise questions, first of all and most obviously because they tend to question some of the achievements of justice and democracy in a European context, e.g. Europe being a death penalty-free zone. But such pleas also raise questions because they are informed by a poor understanding of punishment. In "Punishment and Social Structure", Georg Rusche and Otto Kirchheimer stated that

> punishment is neither a simple consequence of crime, nor the reverse side of crime, nor a mere means which is determined by the end to be achieved. Punishment must be understood as a social phenomenon freed from both its juristic and its social ends. (Rusche, Kirchheimer 1968: 5)

Punishment is not merely a means to an end, or a way to satisfy or channel feelings of revenge. Within penology we have developed a much richer understanding of punishment. In "De la division du travail social", Émile Durkheim noted that punishment is mainly about deep human emotions; it is essentially a passionate reaction. However, this mechanical, passionate reaction fulfils an important function for Durkheim: it strengthens social cohesion. Or as he puts it:

[4] Author's translation.

[5] Author's translation.

> Although it proceeds from an entirely mechanical reaction, from passionate and largely thoughtless movements, it does not fail to play a useful role. Only this role is not where we usually see it. It does not serve, or serves only very secondarily, to correct the culprit or to intimidate his possible imitators; from this double point of view, its effectiveness is justly doubtful and in any case mediocre. Its true function is to maintain intact social cohesion by maintaining all its vitality in the common conscience.[6] (Durkheim 1893: 115–116)

For Durkheim, the goals of punishment (correcting the criminal or deterring potential offenders) should not be confused with the function of punishment (preserving social cohesion). By studying punishment in this way, he paved the way for a sociological understanding of it. And, indeed, over the past few decades, punishment has come to be studied in relation to solidarity, power, political economy, culture, etc. (see e.g. Garland 1990; Daems 2008; Simon, Sparks 2013).

Such a "punishment and society" approach also invites us to explore the extent to which punishment expresses – and helps shape – identity (Daems 2013; Geltner 2014). In "Punishment and Modern Society" David Garland (1990: 276) wrote that "the ways in which we punish, and the ways in which we represent that action to ourselves, makes a difference to the way we are". The late Pieter Spierenburg (2004: 625) formulated it as follows:

> The aim is to explore in what way changes in punishment reflect broader, long-term developments in society; to learn, through the study of punishment, how these developments are interrelated; to find out if all this may enhance our insight into the structure of our own society and ourselves.

Viewed in this way, our own identity, our European identity, seems to be at stake in the terrorism case that we introduced in the previous section. If it is true that the ways in which we punish define ourselves and differentiate us from how others punish, what does punishment then say about us? What do we stand for? The ways in which Europeans punish today may tell us something about European identity.

When we approach punishment from this angle, the question of how to respond to crime should not be narrowed down to how we can inflict "deserved" pain or how can we reach the goals of punishment more effectively; we should rather broaden it to the question of how we can strengthen and affirm our values and ideals through our response. "In figuring the equations of punishment … we cannot hold the punisher constant", as James Whitman (2003: 24) wrote in "Harsh Justice". And indeed, the "punisher" is not a natural given or an "independent variable". He or she does not respond to crime like a salivating Pavlovian dog. Punishment therefore is not just about the defendants in the dock: it affects us all.

[6] Author's translation.

3. Constructing a European penal identity

Acts of terrorism, like other forms of crime, are a feature of all times. But the way we respond to crime is not a constant. We punish differently today than our ancestors did 100 or 1,000 years ago – and our descendants will punish differently in 100 or 1,000 years. We also punish differently depending on the place where we live: for example, prisons in Iceland are very different from prisons in California (Daems 2021a). An important new player that has helped shape punishment since the second half of the twentieth century is "Europe" in its various institutional guises. But just like punishment, Europe is not a constant. Europe, so the Polish--British sociologist Zygmunt Bauman once argued, "is not something you discover; Europe is a mission – something to be made, created, built" (Bauman 2004: 2). He continued: "[W]e, the Europeans, are perhaps the sole people who (as historical subjects and actors of culture) have no identity – fixed identity, or an identity deemed and believed to be fixed" (Bauman 2004: 12). And just like Europe itself, so has European penal identity come to be made, created, built.

The European Court of Human Rights, for example, has played an important role in defining and monitoring what is acceptable in terms of punishment, particularly since its judgment in *Golder v. UK* (1975). In that case the Court rejected the doctrine of inherent limitations: restrictions on the fundamental rights of prisoners have to be legitimised and do not automatically follow from a conviction (Smaers 1994). Over the past four decades, prisoners (and their lawyers) have increasingly found their way to Strasbourg (Van Zyl Smit, Snacken 2009, 2013; Tulkens 2014; Anagnostou, Skleparis 2017). In particular, Articles 2 (right to life), 3 (prohibition of torture), 5 (right to liberty and security), 6 (right to a fair trial) and 8 (right to respect for private and family life) of the European Convention of Human Rights have repeatedly – and successfully – been invoked before the Court. Today the Court is dealing with all kinds of issues, from correspondence, prison visits and strip searches to overcrowding, substandard detention infrastructure, inadequate health care and lifelong imprisonment. The Court's judgments are, of course, of direct interest to the parties involved, but they are also important to all other incarcerated persons in Europe's prisons.

From a preventive point of view, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has established itself over the past three decades as a key actor in the monitoring of detention conditions. The CPT has unlimited access to places of detention (prisons, police cells, migration centres, youth institutions, psychiatric hospitals, etc.) in all Member States of the Council of Europe and can freely interact with detainees and staff. Each visit is followed by a report with findings, recommendations and requests for information, which is sent to the authorities of the Member State in question. Article 10 of the European Convention states that each Member State is obliged to ensure its full cooperation with the CPT; if a Member State refuses to cooperate or fails to improve the situation in the light of the CPT's recommenda-

tions, the Committee may proceed to a public statement. When it was established in November 1989, the CPT was a unique institution, but it quickly came to serve as an example and forerunner for other institutions with a similar *modus operandi*, in particular the UN Subcommittee on Prevention of Torture (SPT), which became operational in 2007 after the so-called OPCAT entered into force (Bicknell, Evans 2007), and many national and local monitoring bodies around the globe. As of 13 July 2023, the CPT had carried out 507 visits (292 periodic and 215 *ad hoc* visits) and published 457 reports.

The European Court and the CPT are perhaps the best-known players when it comes to shaping punishment within Europe, but they are not alone. For example, within the Council of Europe, the Committee of Ministers traditionally plays a prominent role (e.g. with recommendations on prison overcrowding and prison population inflation, parole, the European prison rules, etc.). More recently, the European Commissioner for Human Rights has also contributed to the European debate on sentencing, writing letters to government leaders, opinions and visit reports. Moreover, whereas the EU used to be quite reluctant to intervene in EU Member States' criminal justice and penal policies, this has changed significantly, in particular following the judgment (5 April 2016) of the Court of Justice in the joined cases C-404/15 (Aranyosi) and C-659/15 PPU (Căldăraru) (Baker 2013; Daems 2016). The EU's involvement in detention issues seems mainly to be motivated by the fear that substandard prison conditions threaten to undermine the smooth functioning of EU instruments that operate on the basis of mutual recognition. The execution of European arrest warrants or the transfer of detainees presupposes sufficient mutual trust in each other's prison systems, which is not evident given the deplorable detention conditions in various EU Member States (Daems 2013).

The post-war developments in the field of punishment in Europe are impressive. When the renowned French lawyer and former judge in the European Court of Human Rights René Cassin received the Nobel Peace Prize in 1968, he praised the pioneering role that Europe had played in the field of human rights: "[T]here is at least one continent where an impressive array of states has committed itself to heeding the lessons of the Second World War" (Cassin 1968: 7). At first glance, it seems as if Europe has continued to serve as an example in the decades that followed, including in the area of prison monitoring. The European Anti-Torture Convention of 1987 came to be adopted because earlier attempts to create a similar mechanism at the UN level had failed (Daems 2013). It was not until 2002 that the OPCAT saw the light of day. We sometimes tend to forget what a revolutionary idea it was at the time. When one reads "Inhuman States", written by the Italian jurist and first CPT president Antonio Cassese (1996), one can feel the hesitation and taste the improvisation of the early years of the CPT. Unlimited access to prisons – the *sancta sanctorum* of the sovereign nation state – was by no means self-evident, as Cassese recalls at the beginning of his book. The developments outlined in this section should not be taken for granted: indeed, some might feel tempted to argue that this is "cosmopolitan Europe" (Beck, Grande 2007) at its best.

4. Revisiting punishment in Europe

However, this is not the whole story. There is a darker side to punishment in Europe. Indeed, notwithstanding decades of work of key European institutions, in 2023 we still see many prison systems in Europe suffering from severe overcrowding, poor living conditions and insufficient care and help for vulnerable detainees. Moreover, some of those key institutions in Europe, like the Court or the CPT, tend to be ignored or face serious challenges. At the end of August 2016, for example, Nils Muižnieks (2016), at that time European Commissioner for Human Rights, sounded the alarm: the implementation of judgments of the European Court of Human Rights left much to be desired and the authority of the Court was increasingly being questioned. On 12 December 2016, Thorbjørn Jagland, the then Secretary General of the Council of Europe, expressed his concerns in a remarkable opinion piece published in "The New York Times" titled "Don't Caricature Europe's Court" (Jagland 2016). The European Convention of Human Rights, Jagland observed, was coming under fire in a growing number of European countries. In his op-ed, Jagland referred to René Cassin's 1968 speech, which we quoted above, in which Cassin praised the European judges as the "true laureates" of the Nobel Prize. In 2016, the situation seemed to be slightly different:

> [T]oday, these same judges are increasingly derided as an impediment to democracy by politicians looking to appeal to nationalist sentiment. The court and the European Convention on Human Rights have come under attack in a growing number of European countries. This is symptomatic of a wider breakdown in the postwar consensus that accepted international law as a fair price for peace and prosperity. These days, the public appetite for international cooperation is waning. Many people are feeling the sharp end of globalization, as their communities face widening inequality and mismanaged diversity. Political programs that promise hard borders and unbridled national sovereignty have become an easier sell. (Jagland 2016)

For its part, the CPT has on various occasions expressed concerns about the poor follow-up of its recommendations (Daems 2017b). Increasingly, as the CPT observes in multiple statements, it has to sing the same tune:

> [A] country's cooperation with the CPT cannot be described as effective in the absence of action to improve the situation in the light of the Committee's recommendations. Over the years, there has been no shortage of 'success stories'. However, it is also the case that the failure of States to implement recommendations repeatedly made by the CPT on certain issues remains a constant refrain of the Committee's reports. Few countries visited over the last twelve months have escaped this criticism. (CPT 2008)

Interestingly, such concerns are not new; on the contrary, they have been voiced for a very long time. For example, in "Prison Secrets" – which was published shortly after the landmark *Golder v. UK* case – Stanley Cohen and Laurie Taylor (1978) reflect on the impact of the European Court's judgment. The title of the relevant section in the book – "All that glitters is not Golder" – immediately betrayed a cer-

tain scepticism about the expected impact of the Strasbourg judgment on British prison practice. Shortly after the judgment, it seemed as if things were about to change. Indeed, a new Circular Instruction was expressly presented in response to the judgment. However, access to a lawyer, which was a key issue in the Golder case, became possible only if complaints were first made via the "normal existing internal procedures". What the Home Office gave with one hand, it took back with the other. The Home Office was well aware that this neutralised the impact of the reform: "By virtue of the arrangements explained … it does not appear that staff should in practice feel at substantially any greater risk of involvement in litigation than now" (cited in Cohen, Taylor 1978: 43). Cohen and Taylor were particularly critical about this. They wrote about "the creation of a system which seems almost totally designed to block the prisoners' intentions at every turn – a system in which double-talk and hypocrisy have almost become elevated into principles" (Cohen, Taylor 1978: 48). Cohen and Taylor hoped that the European Court would continue to condemn such "cynical violations of human rights" in future cases.

5. A penology for Europe

So how to make sense of these mixed messages, Europe being simultaneously a "success" and a "failure" in respect of punishment? It seems obvious that the European developments outlined earlier (section 3) in the field of human rights and the humanisation of punishment cannot be captured in a linear progress story or Whig history. The story of the victories and milestone judgments is important, but this is only part of a bigger story. Why do these institutions at times receive so little attention? Why is the implementation of judgments and recommendations so difficult? Is this a case of implementation failure or rather of theory failure? Just as revisionist historiography in the 1970s and early 1980s rightly cast doubt on the tendency to equate modernisation and humanisation in the history of punishment, contemporary penology may benefit from reviving that earlier "hermeneutics of suspicion" (see e.g. Garland 1986; Daems 2019). There seems to be a need for a penology that charts such ambivalences and places them in a wider context, thereby counteracting an all too facile progress story or a misplaced and simplistic Eurocentric discourse.

How should such a penology for Europe proceed? We make two suggestions. A first avenue might be to study the impact of European institutions – or the lack thereof – from the perspective of denial, as introduced by Stanley Cohen (2001). His disappointing experiences in the human rights movement in Israel made Cohen conclude that the findings and recommendations of human rights bodies (in his case, about the torture of Palestinian prisoners) are often ignored: people close their eyes, they look away, they fail to acknowledge and act. Why is this so? This is not because of a lack of information, but rather because of the ways in which we process and deal

with that information. Facts can be denied ("it never happened"), facts can be given another meaning ("it's not what it seems") or the implications can be denied ("it's not that bad after all") (Cohen 1995, 2001; for a discussion, see Daems 2021b). The study of processes of denial might be particularly interesting for understanding the impact of prison monitoring. Indeed, the raw facts, as observed and recorded by monitoring bodies, are often simple and straightforward, e.g. when people have to sleep on the floor of a prison cell or when they are being locked up in overcrowded institutions with poor ventilation. But that does not mean that states simply accept these raw facts and immediately follow up on recommendations. In order to understand the enduring problems in penal systems in Europe, we need to realise that states may deploy strategies to buy time or divert responsibility, to challenge observations or remain deliberately vague, to repeat what is already known or to indulge in pointless repetition of legal frameworks, etc. (Daems 2017b).

A second source of inspiration is the work of Erving Goffman. To students of crime and punishment Goffman is well known for his books, "Asylums" (Goffman 1961) – where he introduced the notion of the "total institution", which had a major influence on prison sociology – and "Stigma" (Goffman 1963), where he discussed identity formation and the management of tainted identities. However, his broader sociological approach might also be useful in helping us to ask different questions about the role European institutions play. Goffman studied human interactions: people meeting and engaging in conversations. His sociology is very much about the management of information about oneself: what information do we disclose, and what do we hide from others? In particular, how do we manage discrediting or embarrassing information about ourselves? At first sight, such questions may seem far removed from our topic here: Goffman was, after all, very much concerned with face-to-face interactions. He was an observer of everyday life, which seems a long way from the dull, formalistic interactions between European courts, monitoring bodies and state bureaucracies. However, the dramaturgical metaphors he used are useful: his suggestion that the social world is like a play, a piece of drama or performance also seems to apply to how interactions happen on the European stage. Just like people in everyday interactions also states may select "masks" and try to impress their audiences, state authorities may also hide embarrassing facts or try to redefine them so that they look different to the audience. What is going on behind all those words and gestures?

Conclusion

For a long time, penology itself has had to deal with a Goffmanesque "tainted identity". In 1953 Clive S. Lewis famously wrote: "Only the expert 'penologist' (let barbarous things have barbarous names), in the light of previous experiment, can tell us what is likely to deter; only the psychotherapist can tell us what is likely to cure" (Lewis 1953: 226). Lewis criticised penology as a technical pseudoscience

that focussed blindly on questions of effectiveness and thereby ignored what, in his view, should be the essence of punishment: retribution.

Over the past decades, however, penology has undergone a profound process of transformation. The study of the effectiveness of punishment and other interventions became less ambitious, but more sophisticated and evidence-based. The philosophy of punishment came to be challenged by innovative ideas that emerged from the late 1960s onwards, including abolitionist views on criminal law, restorative justice and developments in human rights, as well as penal theories that focus on the communicative dimension of punishment. Finally, the sociology of punishment experienced a real revival. This has happened particularly since the 1970s with Michel Foucault's (1975) influential study of the origins of the prison, but also afterwards, especially under the influence of Norbert Elias' (2000) civilizational theory and David Garland's (1990) multidimensional sociology of punishment.

The penology of today bears little resemblance to the barbaric science of punishment targeted by C.S. Lewis. Contemporary penology has emerged as a thriving sub-discipline of criminology, and it is within the contours of that penology that the European dimension also deserves a more prominent place. A penology for today's Europe should have at least two objectives. On the one hand, there is a need to document and describe, in order to understand and analyse what is happening (or not happening) with punishment in Europe, whilst comparing European developments to those elsewhere in the world. But on the other hand, such a penology should also get its hands dirty; it should engage and intervene in the key debates of today's Europe. After all, as we discussed earlier, our European institutions are under attack and face important challenges. A penology "for" today's Europe therefore seems necessary – more than ever.

Declaration of Conflict Interests

The author declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author received no specific funding for this work.

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