Punitive Reactions to Completed Crimes Versus Accidentally Uncompleted Crimes

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Previous studies have shown that the harm caused by crime affects punitive reactions even if differences in the degree of harm are merely accidental. However, it remains unclear whether the effect is direct or whether it is mediated by attributed responsibility or blame. Participants were 303 university students who listened to 4 case vignettes (between-subjects design). Half received information about a completed crime and half about an accidentally uncompleted crime. Crime type was either fraud or rape. The results suggest that individuals consider the actual harm to a significantly greater extent than attribution theory would predict. Moreover, the link between harm and punishment was virtually not mediated by attributed blame and not moderated by individual differences in morality. Future studies should investigate whether the harm–punishment link is a result of an automatic act of retaliation or a desire to compensate for the harm done to the victim (restorative justice).

Imagine that a perpetrator tries to defraud an elderly woman of her savings and only by mere chance does not succeed. How do people react to this situation? Does it make a difference to their punitive reaction whether the fraud is successful or accidentally unsuccessful?

Numerous studies have shown that the degree of harm or damage affects the demand for punishment (Casey & O’Connell, 1999; Horan & Kaplan, 1983; Robbennolt, 2000), as well as the perceived seriousness of the offense (Gebotys & Dasgupta, 1987). The harm–punishment link is found even if differences in the harm were not caused by the perpetrator’s actions; that is, if these differences were accidental (Greene & Darley, 1998).

The psychological mechanism that accounts for the harm–punishment link if the degree of harm is determined solely by chance remains unclear. It is conceivable that individuals are preoccupied by the victim’s pain and suffering,

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which are obvious and undisputed in the case of a completed crime, but which first have to be imagined if the crime has not been completed. On the other hand, however, attribution theorists since Piaget (1965) have postulated that the harm–punishment link is almost exclusively mediated by the perpetrator’s moral responsibility. Thus, it is not clear whether the degree of harm can explain punitive reactions independent of attributed blame or moral responsibility. This question of whether and under what circumstances people show harm-oriented moral thinking in the sense of the philosophy of consequentialism is crucial because the possible answer bears critically on the assumptions we may ultimately make about the structure of moral judgments and the basic principles underlying lay and judicial decisions (Howe & Loftus, 1992).

First, let us look at the criminal law, which not only has the function of legitimizing punishment from a moral point of view (cf. Hassemer, 1990), but also of satisfying laymen’s ideas of sentencing to a certain extent (Robinson & Darley, 1995). Obviously, the subjective aspect of the criminal act (the felonious intention) is a legally relevant factor in sentencing, as well as the objective aspect (the concrete injuries and the jeopardy to life and property). Concerning the subjective aspect of the criminal act, it makes no difference whether or not the intended consequences are obtained, as long as the perpetrator has formed a criminal intention and has completely planned or even started to commit the crime (cf. Karlovac & Darley, 1988; Trechsel & Noll, 1994). Concerning the objective aspect or consequences of the criminal act, the law differentiates between a completed and an accidentally uncompleted crime, which means that attempted crimes may be punished less severely.

In contrast to criminal law, attribution theory postulates that in everyday life, punitive reactions are determined almost exclusively by the attributed blame (Shaver, 1985; Weiner, 1995). Developmental psychology has revealed that young children undervalue information about intentions relative to information about consequences (cf. Karniol, 1978; Piaget, 1965; Surber, 1977). However, in the further cognitive and moral development of children and adolescents, the weight of consequences in judging behavior sharply decreases with age. Attribution theory states that the punitive difference between completed and accidentally uncompleted crimes is not primarily a result of the perceived harm, but of the fact that individuals implicitly infer from the greater harm the greater fault of a defendant (Vidmar & Crinklaw, 1974).

3The term responsibility is used with very different meanings (Hart & Honore, 1959). Here, we use the term moral responsibility synonymous with blame (Shaver, 1985), which means that the offender has caused the event intentionally, was able to control the action, was able to foresee the negative consequences, and that no relevant excuses or justifications are given (Shaver, 1985).

4This holds at least for the criminal laws in Germany and Switzerland, but obviously for criminal law in the United States as well (Clarke & Rubinsky, 1981).
The harm-dependent increase of attributed blame has been explained either by motivational (Lerner, 1980; Shaver, 1970; Walster, 1966) or nonmotivational models (e.g., Brewer, 1977). According to motivational approaches, like defensive attribution theory (Schroeder & Linder, 1976; Shaver, 1970; Walster, 1966), the harm-linked increase of attributed responsibility is the product of a self-serving bias. Observers of a negative event who are afraid of becoming either a victim or a perpetrator in a similar situation should be motivated to reduce their fear by attributing more blame to the victim or to the perpetrator, respectively (Shaver, 1970). According to Brewer’s nonmotivational approach, the observer uses the degree of harm or damage as a clue to infer two independent probabilities: (a) that the damage could have happened also without the perpetrator; and (b) that the damage was caused by the perpetrator’s action. Now, the amount of attributed responsibility can be predicted by subtracting the first probability from the second probability. And since, for the observer, the probability that the harmful event could have happened without the perpetrator’s action usually decreases with increasing damage, the attribution of blame rises with the extent of damage.

In addition to the question of whether one or the other approach provides a better explanation, it is important for our central question to note that both theoretical approaches postulate that the harm–punishment link is mediated by the responsibility attributed. This view is particularly obvious in Weiner’s (1995) model. According to his model, not only punishment, but even anger is determined exclusively by the attributed responsibility: Anger as well as need for punishment presuppose that moral responsibility has been attributed. The assumption that individuals who weight harmful consequences relatively highly are less developed in their moral reasoning is congruent with this approach (Horan & Kaplan, 1983; Howe & Loftus, 1992).

Numerous studies have corroborated the harm-dependent increase of attributed responsibility or blame (Bornstein, 1998; Geoty & Dasgupta, 1987; Greene & Darley, 1998; Kauffman & Ryckman, 1979; Rosen & Jerdee, 1974; Shaver, 1970; Shaw & Sulzer, 1964; Vidmar & Crinklaw, 1974; Walster, 1966). However, Robbennolt (2000) found in her meta-analysis that the degree of correlation depends on the type of judgment that participants are asked to make. In general, the correlation between harm and blame \((r = .17)\) is larger than between harm and liability \((r = .03)\) or between harm and responsibility \((r = .08)\).

However, empirical support for the hypothesis that harm and blame are systematically connected does not rule out the possibility that degree of harm exerts an additional, independent influence on the punitive reaction. Robbennolt (2000) found that the mean correlation between harm and punishment is even stronger \((r = .29)\) than the mean correlation between harm and blame. However, only four of the analyzed studies (Alicke & Davis, 1990; Baldwin & Kleinke, 1994; Howells, McEwan, Jones, & Mathews, 1983; Taylor & Kleinke, 1992) measured
blame as well as punishment, and they did not address the question of whether or not harm has an independent influence.

In particular, the results of Taylor and Kleinke (1992) suggest that, at least for accidents negligently caused by drunk driving, severity was the only variable influencing punishment. From a theoretical point of view, it is conceivable that individuals simply want to compensate for the victim’s pain and suffering by means of their punitive reaction without simultaneously enhancing the blame or fault of the defendant (Boers & Sessar, 1990; Bornstein, 1998; Hommers & Anderson, 1985; Wissler, Evans, Hart, Morry, & Saks, 1997). This is corroborated by studies that integrate information about both the perpetrator’s intention and the degree of harm in an additive model (Howe & Loftus, 1992; Leon, 1984; Przygotski & Mullet, 1993). However, the studies cited did not control for the effects of harm (e.g., Brewer, 1977) on the implicitly inferred responsibility or blame. Hence, the explanation of the harm–punishment link as mediated by attribution processes is not falsified by these studies.

The key question, therefore, is whether accidental differences in the degree of harm determine punitive reactions without the mediation of the moral responsibility attributed. Feather (1998, 1999) is one of a few theorists who depart from attribution theory and who explicitly postulate an independent link between perceived seriousness of offense and the punitive reaction. Feather’s (1999) model goes “beyond conceptual analyses that focus almost exclusively on causal attributions and perceived responsibility” (p. 528).

Given constant responsibility, the harshness of punishment or penalty will increase with the perceived seriousness of the offense. This assumption has been supported by Feather (1998, 1999) in several studies. However, by measuring the seriousness of the offense, Feather (1999) obviously did not differentiate between harmfulness and wrongfulness of the offense. According to Warr (1989), harmfulness and wrongfulness are two different components of the perceived severity of an offense, and it remains an open empirical question whether Feather’s (1999) model may be corroborated solely by manipulating the harmfulness of an offense. Therefore, the present study investigates whether the harm–punishment link is mediated by moral responsibility—as predicted by attribution theory—or whether harm influences punitive reactions more or less independently of the moral responsibility attributed.

Method

Participants

The sample consisted of 303 undergraduates (184 female, 119 male) at the University of Berne (80 students of psychology, 223 students of miscellaneous other subjects). The data were collected in the Department of Psychology.
Participants were paid 20 Swiss francs (about US$12). The mean age was 23.7 years ($SD = 3.5$, range = 19 to 48 years).

Case Vignettes

Participants listened to a section of a radio broadcast (about 7 min), including an interview with a criminologist on recent developments in crime. The broadcast was fictitious and had been produced for the present study, but participants were meant to think that the broadcast was authentic.

The interview contained, among other things, information about a criminal case. Four different case vignettes were used, which were assigned randomly to the participants. Half of the participants received information about a completed crime and half received information about an accidentally uncompleted crime (the independent variable was criminal success). In addition, the crime type was varied: Half of the participants received information about a fraud case, and half of them received information about a rape case. We chose these vignettes because fraud and rape are frequent crimes within the two main types of deliberate criminal acts: property and violent crimes, respectively.

In all vignettes, the perpetrator was a native 40-year-old man. In the fraud vignettes, the perpetrator pretends to be an employee of an apartment rental company and induces, by falsified documents, an elderly female tenant to transfer 10,000 Swiss francs (about US$6,000) to a bank account. In the accidentally uncompleted fraud ($n = 76$), the victim accidentally encounters the house owner before transferring the money and finds out about the fraud. In the completed fraud ($n = 75$), the victim randomly encounters the house owner after having transferred the money, and the bank cannot revoke the transfer since the perpetrator’s account was closed a short time after the transfer. Moreover, the account holder is unknown, since he had given false identity papers to the bank. In the rape vignettes, a book-shop customer assaults the female shop owner in a back room of the store. In the case of an uncompleted rape ($n = 76$), a friend of the victim accidentally pays a visit to the store, thereby preventing the rape just in time. In the completed rape ($n = 76$), a friend of the victim accidentally pays a visit to the store, but arrives shortly after the perpetrator has left.

Dependent Variables

Blame. Blame accorded to the perpetrator was assessed by means of a single item: “In your opinion, how strongly is the perpetrator to be blamed for the crime?” Answers were rated on a 7-point scale ranging from 1 (no blame) to 7 (very strong blame).

Harm. Harm was assessed by a single item: “In your opinion, how large is the overall harm the victim suffered from the perpetrator’s behavior?” Answers were rated on a 7-point scale ranging from 1 (no harm) to 7 (very great harm).
Seriousness of offense. Seriousness of offense was assessed by a single item: “How serious is the offense compared to other possible offenses?” Answers were rated on a 10-point scale ranging from 1 (riding a bus without paying) to 10 (murder).

Punishment. Participants assessed a 7-year prison sentence with four items (Cronbach’s \( \alpha = .91 \)). Answers were rated on 7-point scales. The items covered assessments of deservingness (1 = not at all deserved, 7 = highly deserved), appropriateness (1 = not at all appropriate, 7 = very appropriate), severity (1 = much too severe, 7 = much too lenient), and justice (1 = very unjust, 7 = very just).

Consequentialism. The dispositional attitude toward consequentialism was assessed by a single item: “To judge the perpetrator’s action, I ask myself whether the consequences of his action were serious, and I do not ask myself what he intended.” Answers were rated on a 7-point scale ranging from 1 (not at all) to 7 (completely).

Results

The statistical results are based on regression and path analyses to allow for an exhaustive use of the data in the mediation and moderation analyses. The manipulation check reveals that for both types of crime (fraud and rape), the success of the crime influenced the perceived degree of harm to the same extent. Therefore, we generally report the results for the whole sample, and differentiate between the two types of crime only where differences are significant.

Table 1 displays means, standard deviations, and correlation coefficients of blame, harm, seriousness of offense, punishment, and consequentialism. Inspection of the means reveals that participants attributed a high degree of blame, assessed high degrees of harm, considered the offense serious, required medium punishment, and showed medium consequentialism.

Figure 1 shows the results of three successively modified path analyses. The relation between criminal success and blame was mediated by the degree of harm assessed, and blame affected punishment (Figure 1A). Thus, there was a harm-dependent increase of attributed blame, as has been revealed in other empirical studies; and blame predicted punishment, as predicted by attribution theory. Our independent variable criminal success did not influence blame directly, but the effect was mediated by the assessment of the degree of harm: Criminal success does not affect blame if the effect of harm is controlled. This result is consistent with the fact that both in the completed case vignettes and in the accidentally uncompleted case vignettes, the perpetrator’s blame should, objectively speaking, be constant.

However, if a direct path between harm and punishment is assumed, the harm–punishment link is much stronger than the blame–punishment link (Figure 1B). Thus, in the analysis of the relation between criminal success and
punishment, the assessment of the victim’s harm is much more influential than the assessment of the perpetrator’s blame. The direct effect of blame on punishment decreases and becomes rather dispensable if the perceived degree of harm is controlled, thus contradicting attribution theory. In addition, we calculated a path model allowing for a direct path between criminal success and punishment. However, this path coefficient was nonsignificant at .11, and the other path coefficients hardly changed (not shown in Figure 1).

If the harm variable is supplemented by the more comprehensive variable of perceived seriousness of offense—the construct included by Feather (1998, 1999) in his model—the direct link to punishment is even stronger, whereas the blame–punishment link remains insignificant (Figure 1C). The harm–punishment link is particularly strong if the degree of harm is determined by the degree of psychological or physical harm. This holds more strongly among participants who assessed the rape case than among those who assessed the fraud case. Consequently, the data show a significantly stronger harm–punishment link for rape than for fraud. In contrast, the other links revealed no significant effects of crime type.

We tested whether the results for the path analyses were different for women and men. Multiple group analysis (cf. Kline, 1998) reveals for all analyses that the fit of a path model without gender differences was not significantly lower than the fit of a path model allowing for gender differences: for the analysis shown in Figure 1A, $\Delta \chi^2(4, N = 303) = 0.69, p = .95$; for the analysis shown in Figure 1B, $\Delta \chi^2(5, N = 303) = 0.95, p = .97$; and for the analysis shown in Figure 1C, $\Delta \chi^2(6, N = 303) = 1.20, p = .98$. Thus, in this study, gender did not have to be taken into account as a moderator of the results.

Table 1

Means and Correlations of Blame, Harm, Seriousness of Offense, Punishment, and Consequentialism

<table>
<thead>
<tr>
<th>Variable</th>
<th>M</th>
<th>SD</th>
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<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
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<tr>
<td>1. Criminal successa</td>
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<td>2. Blame</td>
<td>6.02</td>
<td>1.06</td>
<td>.17**</td>
<td>—</td>
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<td>—</td>
<td>—</td>
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<td>3. Harm</td>
<td>5.40</td>
<td>1.56</td>
<td>.40**</td>
<td>.29**</td>
<td>—</td>
<td>—</td>
<td>—</td>
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<tr>
<td>4. Seriousness of offense</td>
<td>6.01</td>
<td>2.11</td>
<td>.12**</td>
<td>.28**</td>
<td>.55**</td>
<td>—</td>
<td>—</td>
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<tr>
<td>5. Punishment</td>
<td>3.24</td>
<td>1.48</td>
<td>.27**</td>
<td>.26**</td>
<td>.44**</td>
<td>.57**</td>
<td>—</td>
</tr>
<tr>
<td>6. Consequentialism</td>
<td>3.96</td>
<td>1.92</td>
<td>.06</td>
<td>.04</td>
<td>.08</td>
<td>.01</td>
<td>.05</td>
</tr>
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Note. $N \geq 298$.

*a0 = accidentally uncompleted crime, 1 = completed crime.

*p < .05, two-tailed. **p < .01, two-tailed.
In addition, we tested whether dispositional consequentialism moderated the links between criminal success and punishment, and between harm and punishment. Table 2 shows the results of a hierarchical regression analysis testing this hypothesis. We followed the guidelines of Baron and Kenny (1986). In the first step, the predictor variables (criminal success and harm, respectively) and the moderator variable (consequentialism) were entered in the regression equation predicting the criterion (punishment). In the second step, the product of the moderator and the predictor variable was entered to test whether the product had a significant effect while the two main effects were controlled. Standardized regression coefficients are not interpretable in moderated hierarchical regression analysis; therefore, we only report the unstandardized coefficients.

*Figure 1*. Path analyses of the relation between criminal success and punishment (*p < .05, **p < .01).
The analysis reveals that the incremental variance explained by the second step was virtually zero for the models of both predictor variables. Thus, neither the criminal-success/punishment link nor the harm–punishment link was moderated by a consequentialistic attitude toward punishment.

Discussion

The results of the present study suggest that individuals consider the actual harm to a significantly greater extent in their punitive reaction than attribution theory would predict. Moreover, the link between harm and punishment is a direct one, much less mediated by the individual’s attribution of blame to the perpetrator.

Although psychologists since Piaget (1965) have given priority to the perpetrator’s intention rather than to the consequences of the perpetrator’s action, this does not mean that the degree of harm has no effect at all on punitive reactions (Casey & O’Connell, 1999). Nevertheless, up to now, no theory of moral judgment or
responsibility attribution has dealt explicitly with the question of whether and how the consequences may affect punishment reactions independent of the attribution of moral responsibility. An exception might be seen in studies that take individual differences in punitivity into account. According to these studies, only individuals with a lower level of moral judgment give a higher priority to consequences over intentions (cf. Casey & O’Connell, 1999; Howe & Loftus, 1992). However, the present study demonstrates that the tendency to consider harm or damage in its own right is not an isolated phenomenon of only a few morally poorly developed individuals. The fact that dispositional consequentialism does not moderate the link between criminal success and punishment, and harm and punishment, respectively, indicates that the results apply to the whole sample studied.

One could argue that the specific case vignettes produced little motivation for attributional considerations. The manipulation even may have minimized the impact of responsibility considerations on the punishment decision because participants probably perceived little similarity between themselves and the 40-year-old perpetrator, and only a few of them would see themselves as future perpetrators of attempted or completed fraud or rape. But even if this were true, it would not at all undermine the central result that participants are, at least in some cases, inclined to punish more or less independently of blame attribution. The results remain provocative, at least regarding common theories of moral judgment.

Furthermore, the results endorse Feather’s (1998) model. The present study shows that the perceived seriousness of the offense affects the punitive reaction, even if the seriousness of the offense is manipulated solely by varying harmfulness. However, Feather’s model does not allow a closer look at the psychological mechanism that accounts for the harm–punishment link if the degree of harm is determined exclusively by chance.

In the present study, the harm–punishment link could hardly be a result of a utilitarian penal attitude, which holds that punitive reactions are determined by motives of crime prevention and behavior control (Vidmar & Miller, 1980; von Hirsch, 1998). The logic of preventive punishment goals would require that accidentally uncompleted crimes should be punished as severely as completed crimes, since equal criminal intentions predict equal criminal probability of recidivism. On the other hand, a retributive penal attitude cannot explain the strong harm–punishment link, either. A retributive goal, which strives for punishment to equalize the degree of guilt or blame of the defendant (i.e., just deserts) would require a much stronger link between harm and blame than the one established in the present study.

Therefore, future studies should investigate whether the direct link between harm and punishment is a result of an automatic act of retaliation that does not involve complex cognitive processes of blame attribution (cf. Berkowitz, 1993) or of the motivation to compensate for harm done to the victim. In the former case, the individual would simply have the goal of making the perpetrator suffer;
in the latter case, the goal would be the victim’s compensation, which may be accomplished not only by punishment, but also through compensation by the perpetrator, the community, or even insurance (restorative justice).

The studies of Wissler et al. (1997) and Bornstein (1998) have shown that punitive reactions are often determined by compensation goals. However, these studies have so far investigated only cases of harm caused by negligence. The study by Boers and Sessar (1990) showed that even for deliberate crimes, the need for punishment decreased drastically when compensation of harm or damage was offered by the perpetrator or by a third party.

Besides motivational processes, cognitive factors might be responsible for the harm–punishment link revealed in the present study. The case vignettes of accidentally uncompleted crimes might stimulate less vivid imaginations than the more stereotypical case vignettes of completed crimes, and therefore have less impact on the sentencing judgment. Thus, Greene and Darley (1998) asked, “Is it that it makes imagining no-harm outcomes more difficult?” (p. 446) in discussing their finding that punitive reactions are stronger if it is more obvious for subjects that successive events will actually harm the potential victim, even if these events have nothing to do with the perpetrator.

However, besides the important question of which psychological processes determine punitive reactions, the ethical problem remains that varying punishment severity in cases of completed and accidentally uncompleted crimes can hardly be legitimized from a justice perspective, as in both cases the perpetrators had identical intentions, made identical arrangements for committing the crime, and did not have other excuses or justifications. A corrective for judgments on punishment might be to consider the expected instead of the actual harm of the offense. This principle could be useful in cases where harm occurred (cf. Seelmann, 1989), as well as in cases where harm did not occur because of accidental circumstances (circumstances that the perpetrator could not influence). Thus, it would be valid not only for specific cases of crime, but for a wide range of harmful norm deviations (e.g., violation of speed limits, deliberate environmental pollution, burglary).

References


