Dignity and Punishment

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Torture and Dignity
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> *Cassio:* Reputation, reputation, reputation! O, I have lost my reputation! I have lost the immortal part of myself, and what remains is bestial. My reputation, Iago, my reputation!
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> *Iago*: As I am an honest man, I had thought you had received some bodily wound. There is more sense in that than in reputation. Reputation is an idle and most false imposition, oft got without merit and lost without deserving. You have lost no reputation at all unless you repute yourself.

Punishment is not simply a phenomenon of time and space. That is to say, punishment does not merely occur at the level of "time served "or while “locked-up.” When the sentence has finished and the prisoner is “out,” punishment, more often than not, continues. Punishment penetrates the criminal at all levels—moral, psychological, social, political—shaping and creating a certain type of person. Punishment is an identity, something that the punished carries just as they do qualities of gender and race. Thus, to simply correlate the "end" of punishment with the moment the inmate steps “out” of the prison or completes probation is to fundamentally misunderstand the experience and the purpose of punishment. Though the inmate may shed his prison jumpsuit and put on free jeans, the shadows of the chains continue to bind in their own way, perhaps even more constrictingly because invisible. Punishment is chrysalis, a fundamental change, and what emerges may be a living butterfly or a dead worm.

But how can something so external bind itself to a person so intimately such that they are potentially irrevocably altered, carrying the punishment with them as an essential part of their being in the world? Whether it is a simple scolding by a parent, a public rebuke, years locked away in a tiny

cell, or the most egregious case of torture, punishment reaches beyond the skin, touches the person deeply, and lingers in varying degrees. It is meant to and does, for better or worse, have an effect on much more than simply a body or only at a specific time and place. The "success" of a punishment is measured only partly by detaining and incapacitating a body that has transgressed the law, or by an act of revenge against the transgressor that balances the social "debt" created by the criminal act (though since Adam and Cain, the first criminals, the scales have never been righted). Punishment is meant to *change* the transgressor, most especially a certain relationship that the transgressor has to himself. The punished repents, repays, reconsiders, redefines. Punishment, therefore, extends beyond the moment of punishing, beyond the walls of the prison, beyond the completion of a sentence. Punishment corrects, rehabilitates, molds, changes, defines how the punished is *in* the world. In fact, the apotheosis of punishment is precisely the moment it becomes obviated: the punished internalizes an external code—rational, moral, legal—and transforms the judgment of society and others into a judgment they make upon themselves, such that the "external" apparatuses of punishment become mostly superfluous.

That punishment interacts with individuals in these complex ways, that it affects a *living* being, not an inert, dead body, that it touches something "deeper," is phenomenologically and empirically obvious: the child's drooping face after being spanked; the shame one feels after a public rebuke; the criminal's hardened identity after being released; the tortured's inability to reclaim or meaningfully reconstitute the dignity that has been violated. Indeed, a change in comportment to the world and to the self may not ultimately occur. Nonetheless, there must be some way in which punishment has the ability to penetrate the individual's seemingly inviolable "internal" space and alter how one perceives one's self, how one judges the self, how one comports the self to the self and to the world. A "space" must be posited that allows the self to judge itself, and it is in this "space" that punishment often operates. Let us call this the "space of dignity," and it is this space that makes possible a relationship between individual and social, internal and external, will and action. In this paper, I argue that punishment *primarily* operates in this "space of dignity" and that, insofar as punishment seeks to

"rehabilitate" or "correct," it necessarily must work in and through the medium of dignity (and, conversely, shame). Punishment necessarily creates, in varying degrees, a positive or negative relationship of the self-to-self and the self-to-world, and the “success” of punishment, for better or worse, consists in how it ultimately defines, creates, or makes possible these relations.

Dignity Defined

This “space of dignity” is not the same as dignity, a concept that itself is very murky—the two major historical discussions deal with questions of the relationship of the individual to the social, the internal to the external person, the subjective to the objective. We can loosely locate these strands in the thoughts of Aristotle and Kant. For Aristotle, the human is by definition social, coming to know herself through action, development, and the exhibition, mostly in the public realm, of a certain virtuous character over time. The "crown of the virtues" (NE, 112al) he calls μεγαλοψυχία, which has been translated as “magnanimity,” “great-souled,” or “honor.” Μεγαλοψυχία is the mean between vanity and excessive humility, and the μεγαλοψυχος is the "individual who believes, and believes correctly, that he is worthy of great things."[1] In a word, the μεγαλοψυχος is one who has dignity. But this dignity can, for Aristotle, never simply remain at the level of belief, nor is it something that is essential to every person by virtue of them being a person. Dignity and honor are always social goods that must come to be through the medium of the social, developed over time, and recognized by others. This is not a relationship of total dependency or necessity, only an acknowledgment that how we judge ourselves is dialectically related to how others judge us. Dillon writes:

> So the *megalopsuchos* has a cautious relationship to public esteem. He does not depend on the opinions of others for his sense of his worth, nor does he seek to be praised. Rather, he knows his own worth and is concerned that others recognize it as well...he is concerned not just with how he appears in his own eyes, but how he appears in theirs.[2]

One is dignified only insofar as their habits express themselves and are recognized over a lifetime by

[1] - Robin S. Dillon, introduction to *Dignity, Character, and Self-Respect*, ed. Robin S. Dillon (Routledge: New York, 1995), p. 8.
[2] - Ibid., p. 9.

others. In the modern period, Hobbes is the extreme example, locating dignity wholly in the other, "a thing dependent on the need and judgment of another." He continues: "And as in other things, so in men, not the seller, but the buyer determines the price."[3] Hume advocates a more "Aristotelian" notion of pride, though he makes the connection between subjective and objective pride more necessary, causal, even historical, than Aristotle perhaps allows. Hume writes:

> By a continual and earnest pursuit of a character, a name, a reputation in the world, we bring our own deportment and conduct frequently under review, and consider how they appear in the eyes of those who approach and regard us. This constant habit of surveying ourselves, as it were, in reflection, keeps alive all the sentiments of right and wrong, and begets, in noble natures, a certain reverence for themselves as well as others; which is the surest guardian of every virtue.[4]

Kant, on the other hand, posits that nearly inviolable place of the "person," an intrinsic inner worth that "all persons, regardless of character, deserve and ought to maintain." This dignity [*Wërde*] is "absolute, incomparable, unconditional,"[5] an end unto itself that we possess simply because we are persons. *All* persons have equal dignity irrespective of their actions in public or particular judgments they have of themselves—dignity is not something we gain or lose, create or destroy. This position is not diametrically opposed to Aristotle, as Kant does insist that that there is a duty to respect this intrinsic dignity, both our own and the dignity of others, and that we ought "refrain from acting in ways that abase, degrade, defile, or disavow our dignity."[6] Thus, there is an explicit acknowledgment of the moral and social aspects of dignity. Ultimately, however, this intrinsic notion of dignity that is present in all persons is inviolable and primarily begins and terminates in the individual. Though we may act without the proper respect to dignity, though we may sully it, though its journey must at some point pass through the other, making itself vulnerable to wounding, dignity is always present.[7]

We see these extreme aspects of dignity in the exchange between Iago and Cassio. Indeed, reputation and dignity are not reducible to the other, as dignity seems, *prima facie*, to be something

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[3] - Thomas Hobbes, *Leviathan* (Hackett: Indianapolis, 1994), p. 51.

[4] - David Hume, *Enquiries Concerning the Human Understanding and Concerning the Principles of Morals*, ed. L.A. Selby-Bigge, 2nd ed. (Clarendon Press: Oxford, 1972), p. 276.

[5] - Dillon, *Dignity,* p. 14.

[6] - Ibid., p. 15.

[7] - For a succinct yet thorough discussion of Aristotle, Hobbes, Hume, and Kant on dignity see Dillon, *Dignity*, pp. 7-18.

“more” than reputation. But one's reputation, one's honor, the way one appears to others, is very much a part of what it means to be dignified, to “have” dignity. This is Aristotle's hunch. Iago—obsessed with reputation, using all of his cunning and deceit to usurp Cassio's lieutenantship—mocks Cassio's laments. For Cassio, the “immortal part” of a person just *is* his reputation, his rank, the favor of his lord, how he appears to others, and to lose this is to lose the self, to preclude a favorable judgment of the self, to have no dignity. His drunken and ignoble behavior and the subsequent punishment by Othello just *is* the judgment of himself in the world, full stop. Though Iago's response cannot but be read as ironic, he laughs at Cassio's tears, and posits a notion of dignity that is inviolable, internal, and not coterminous with the external, the opinion of others, the bodily, that “bestial” part, a part that can only be judged or reputed by the person herself. This is Kant's hunch. Here, then, are the major elements that constitute dignity: individual and social, soul and body, judgment and power, along with a penumbra of related terms, most especially, reputation, honor, and shame.

Indeed, Aristotle's μεγαλοψυχία and Kant's *Wërde* are nuanced and complicated concepts, and I do not pretend in these few paragraphs to begin to articulate a complete and robust notion of the "what" and "how" of dignity, as this has been discussed much more penetratingly elsewhere (see esp. Dillon). But, for the scope of this paper, we can say a few general things about the phenomenon. I emphasize four aspects.

First, there is the question of whether dignity is a phenomenon proper to the individual or something that is shaped and determined by the society and community to which the individual belongs. Put differently, is it possible for Robinson Crusoe to have dignity on his island, or must he encounter the other—hostile native, friendly mutineer, indifferent castaway—in order to have a notion of his own self-worth? The simple answer is “both.” It is not my interest how this cashes out metaphysically, epistemologically, or psychologically, only to emphasize that phenomenologically, how we see ourselves is deeply, though not wholly, affected by how others see us, treat us, place us in the

world.[8]

Second, relatedly, the question of whether dignity is an essential or accidental quality. Is dignity something that one has simply by virtue of being a person, or must dignity be earned, practiced, developed through one's life? Must we admit that even the most passive human being who seems merely to take up space in this world—or, for that matter, even the most heinous and evil criminal—has some inviolable dignity that we must respect? Or, is dignity something only reserved for those few who shine in and through their actions, how they comport themselves in this world, how they treat and are recognized by others?

Finally, dignity is a judgment and a power: the experience of that power, the ability to exercise that power, and the judgment about how that power is realized or not. It is not a wholly private judgment, nor is it, as we saw above, wholly public. Like Aristotle's μεγαλοψυχος, dignity is a perception of a certain self that one is or that one should be, and the feeling that one has the ability to become that self. Dignity is the experience of creative power, the power to mold oneself, the power to judge that subsequently changes how one is in the world. It is both the acceptance that one is very much at the whim of the being externally judged and determined by the other, while at the same time the realization that one has the will to present oneself in a certain way, to manifest one's own unique desires through the life that one lives.

The "space of dignity" is the field circumscribed by these coordinating pairs: internal/external, individual/social, subjective/objective, power/impotence. The dignified person, then, is someone who maintains a proper relation between these, though this "proper" relation is never algorithmic. The dignified person has a strong individual conception of self, yet one that is bound and deeply affected (though not overdetermined) by the social and objective world. The dignified person experiences the power of being able to shape themselves (though again, bound by the social and intersubjective world)

[8] - As the themes in this paper develop, I hope to use terminology from Rousseau's *Émile*, *viz.*, the distinction between *amour de soi* (natural love of self) and *amour propre* (the love of self that is mediated by others).

and has the ability to exercise that power. Iago and Cassio are both right and both wrong, correct in their synthesis, misguided in their isolated extremities. Dignity is the chiasma of these terms, and, like chromosomes and genes, they do not always interact and express themselves in easily predictable ways.

Dignity is perhaps better understood as an aesthetic phenomenon, rather than a psychological or moral one. Though the psychological and the moral are crucial aspects, dignity means to create something that is one's own, to "live up to" one's life, and to a life that is a public exhibition of one's private uniqueness and power, something that is acknowledged by a community as being beautiful and having worth. Dignity is both singular and collective, something that connects one to the community in a way that simultaneously connects one to the self. It might be best related to Kant's notion of the genius, *viz*., dignity (1) is the ability to exhibit an individual *talent* that is unique and original; (2) is universal and *exemplary*, that is, meant *for* others; (3) is not something that can, to use Kant's words, "describe or indicate scientifically how it brings about its products,"[9]—that is, there is a certain ineffable and uncapturable element of the "what" and "how" of dignity. Though what it is to be "dignified" can be spoken of loosely or even signified (e.g., "Frank? Now he's a man of dignity."), the dignified person often just "is," and the only way one can "say" dignity is to show one's dignity, that is, to continue to live the life that one already does.

Punishment, briefly

Punishment, in its various forms, operates in this field—punishment and dignity belong to the same "space" bound by these coordinating pairs. Whether punishment purports to operate explicitly or implicitly in this space, that an individual's relationship to society and to one's own self is changed after punishment; that a person's experience of one's power or one's ability to exercise that power is altered, is obvious. To speak strongly, punishment does not merely work on a soul or a body (by "body" here, I mean not only the individual's physical body—arms, legs, organs—but also that

[9] - Immanuel Kant, *Critique of Judgment*, trans. Werner S. Pluhar (Hackett: Indianapolis, 1987), p. 175.

“external” part of the self that is presented to the world, judged, honored, shamed), but works on the space *between* soul and body and shapes how one ultimately *relates to* oneself and to others as well as how one is *related to by* oneself and others. Punishment is designed first of all to have this effect on the person, the society, and the person's relationship to that society.

Living butterflies, dead worms. During the Medieval, Early Modern, and Enlightenment periods, theories of punishment explicitly operated in the space mentioned above. It was the express purpose of punishment to attach wings to worms, or, at the least, to show the caterpillar to the edge of the branch so that the process of transformation may begin. The prisoner repented, was saved or offered their own lives, through pain or death, as payment for the debt incurred by their transgression. During the twentieth century, many forms of punishment actively tried to create dead worms, or to squash the bug entirely: the institution of slavery in our own country; the camps in Europe; the gulags of the Soviet Union; the massacres and genocides in the Third World. Punishment in this century was just as radically destructive as the religious and rational models from the preceding centuries pretended to be constructive. The prison became a true abyss, a place that was neither living nor dead, a purgatory circumscribed neither by Heaven nor Hell, which is the worst of all possible hells.

Implicit in these various strategies of punishment were developments and refinements in the experiment of shaping a person and, more importantly, in defining and controlling the relationship that a person has to his or her own self. But, if this "own-self" exists, or, insofar as a person "owns" one's self—possesses it, feels it, knows it—how is it possible that this most intimate relationship can be affected by something so external, so absolutely other: the pepper spray from the officer; the baton blow from the guard; the days of isolation in the hole? How can one incorporate or internalize an experience of something so radically against their own will, so unmistakably outside of them, yet be so irrevocably altered by this experience?

Something of the self must touch and be touched by that which is external. The “I,” then, is not wholly reducible or coterminous with the "I,” most certainly not the “I” of Descartes or Kant. It cannot

actually occupy some internal, inviolable space, a black-box shielded from the world of others. There must be some kind of "space" between "I"s, "I"s that are in some sense one and the same, yet in another sense radically different such that they can effectively, or ultimately, lose each other, find each other, talk to each other, fight each other, love each other, judge each other, respect each other. Perhaps this is the real message of Aristophanes' speech, that the erotic search for our other half is nothing more than holding hands with a hand that is both our lover's and our own. It is Socrates' *daimon* whispering into his soul's ear, or Heideggers' *aufrufen*, the call from our self to ourself so that we may return to ourself.[10] The "self" is no mere thing, but an erotic journey. It is not something to be held like one holds a stone or a glass of wine. Nor is "it" something that is wholly private, internal, separate from a world of indifferent and inert objects or other selves "outside." "It" is not congealed, ossified, or identifiable by stable signifiers. Our own experience of our selves and other selves refutes these dualisms and essentializations absolutely, and much contemporary critique and "discovery" of the "self" are simply restatements of the wisdom of Heraclitus. The self is not a noun but a gerund—the self "selves," and this "self-*ing*" just "is" self. The self is a process, both "inside" and "outside," subject and object, individual and other. After all, Narcissus was wholly convinced that his reflection was not his own, but an absolute other—he was doubled yet unified, split but whole, asymptotically desirous, or, rather, eternally desirous of something that he could never touch precisely because he held it so close.

Dignity is an erotic harmony between selves, or better, it is the striving to achieve that harmony. It is looking into the pond at the reflection of the self, judging it to be beautiful, something worthy of becoming, nay, a *reminder* of who one is, yet something that one is not, something that one must yet become. It is also the belief in one's *power* to become that thing that one is. It is a desire, an enthusiasm, perhaps an intoxication that borders on excess and madness, to touch that reflection, to

[10] - Martin Heidegger, *Being and Time*, trans. John Macquarrie and Edward Robinson (Harper & Row: New York, 1962), ¶ 54, esp. n. 1, p. 314.

know that reflection, in a word: to *love* it. "Harmony" may not be the right word, for that implies a certain eventual stasis or perfect union. The lived life, the journey of dignity, is full of dissonances, legatos, staccatos, changes of keys, but the symphony holds *overall* as something that all enjoy hearing. Obviously, attaining total harmony is impossible, and life just is this process of asymptotic approach. But the striving, the reaching—like the Sistine space between the finger of Adam and the finger of God—the *belief* in that striving and the power to strive is only made possible by a sense of dignity. Insofar as a person does not "see" the reflection, does not come up against a self that he, she, or others deem as beautiful and worthy of love, does not have the motivation to become this self, to love this self—only then does dignity become impossible. And with the death of dignity, with the collapse of this space of dignity, it becomes impossible for the self to touch and be touched by itself, by the other, by the world.

At its best, punishment aims to *remind* a person of this erotic longing to be reunited with the self, or, put more futurally, reminds one to live up to that self that one is to be. At its worst, punishment precludes the possibility of living up to that self, of even forming a notion of the self to "live up to," which is to say, a type of punishment that precludes the possibility of love, both for the self and for others. Sadly, much punishment has been of the latter kind, deploying strategies of punishment that actively squash any possibility of dignity or that neglect it altogether.

The Dignity and Shame of the Criminal

It is essential to a human life to have dignity. Maslow's linear and hierarchical pyramid aside, even in conditions most averse to survival, the human manages to find ways to maintain dignity. Whether it is through a small gesture of grooming (Steinlauf's "soap")[11], a redefinition of circumstances into an

[11] - I am thinking here of the story that Primo Levi relates in *If This is a Man* of his encounter with Steinlauf, a former sergeant of the Austro-Hungarian army, during his early days at Auschwitz. Levi writes: "I wander aimlessly around the washroom when I suddenly see Steinlauf, my friend aged almost fifty with nude torso, scrub his neck and shoulder with little success (he has no soap) but great energy." He concludes: "So we must certainly wash our faces in dirty water and dry ourselves on our jackets. We must polish our shoes, not because the regulation states, but for dignity and propriety."

opportunity for betterment (Malcolm's self-education while in prison), or the hope for some possible future outside (freedom, a beloved, a family), the human strives to be dignified, strives to maintain a positive judgment of herself and abilities despite situations so overwhelming that it becomes difficult to retain even a kernel of dignity. Unfortunately, many modern social conditions minimize or preclude opportunities for the cultivation of dignity: racism, poverty, inequality. Insofar as the social institutions meant to connect the self to the other and encourage a positive sense of dignity fail, then the human necessarily finds other ways. Being part of a community of dignity is almost as necessary as water, air, and food. Non-institutional communities range from the family, to the avant-garde, to other various fringes and margins where one may cultivate dignity. One of the most prominent is criminality.

The criminal often finds his or her dignity precisely by standing against the status quo, against those institutions that have failed to foster dignity, against institutions perceived, correctly or not, to *actively* strive to eliminate the possibility of the criminal's dignity. In fact, for many criminals, dignity lies precisely in the crime, insofar as crime entails the active exercise of one's will despite political or communal standards. This "negative" recognition is still a form of recognition, and there are entire communities where criminal "cred" is the only means to attain honor, nobility, dignity. The school, government, and economic order are seen not only as scenes that preclude the dignity of a person but are actively engaged in disallowing that dignity. Where then the dignity but in standing against those very institutions, in securing recognition however one can—through fear, crime, violence, war?

This is precisely Hobbes' motivation for defining dignity fully in terms of the other (ultimately, the commonwealth), for insofar as any trace of private pride remains, he thinks that there always exists destabilizing threats that create conditions of nastiness, brutishness, death. But such a definition eliminates a notion of dignity as being partly an expression of freedom, uniqueness, and power. Hobbes is fully aware of this because the alternative is anarchy, irreconcilable division, annihilation. For most of the history of philosophy, the conversation about human nature, the state, the criminal, and punishment have been conversations describing extreme swings of the pendulum. It is no accident that

many of the great political treatises begin with the question of the criminal and how to deal with these potential destabilizing and unpredictable individual expressions of power. And though Hobbes' analysis of dignity is ultimately reactionary and limited, he is right to explicitly connect dignity and the potential criminal. Let us explore this connection further, acknowledging its many nuances and complexities. Might we rethink the phenomenon of criminality—not in terms of law, mere transgression, or perversion—but in terms of dignity?

At this point, let us not set up rigid dichotomies between "right" and "wrong" ways of achieving dignity. After all, the criminal or the madman can sometimes be seen as the highest achievement of dignity, a pure expression of will that (possibly) expands the horizons of dignity, a necessary "outside" that ruptures an oppressive "inside," thus making dignity more accessible and possible for all— Jesus of Nazareth, Gandhi, Martin Luther King, Jr. All that is necessary for the argument here is that, insofar as a society aims to include its members as subject to certain sets of rules—legal, moral, communal—and exclude other actions that are perceived as threatening, i.e., crime, then an active effort must be made to ensure that a proper sense of dignity is always cultivated in and through the institutions the society chooses. Dignity is that bridge between self and society. If this fact is ignored, it should come as no surprise that criminality arises, that "criminal dignities" will constantly threaten the stability and harmony that the society strives to achieve.

I do not pretend to believe that were mainstream institutions to cultivate dignity more actively that somehow criminality, violence, and evil would magically disappear. Nor do I argue that certain types of punishment are not sometimes absolutely necessary to redress genuinely psychopathic, sadistic, and sociopathic actions. The criminal will always exist and, on purely aesthetic grounds, probably *should* always exist. This conception of crime as resulting from failures of communities of dignity certainly aims to critique the modern liberal conception of the criminal, where crime is wholly identified with the will and action of an autonomous individual, and thus, all punishment and responsibility is borne by this individual. However, I do not want to necessarily argue that criminality

is social “all the way down.” I agree wholeheartedly with Dostoyevsky that, “the degree of civilization in a society can be judged by entering its prisons,” that the prevalence of our crime and the way we punish that crime reveal much deeper social failures, and that oftentimes a criminal action can be seen as a cry for dignity. My argument is only that insofar as punishment purports to rehabilitate or genuinely to seek to reduce recidivism, it must take dignity seriously. Insofar as popular institutions do not provide the means adequate for achieving recognition, for exercising one's power and creativity, other scenes are found: the gang, the notoriety of being a well-known criminal, the nobility of standing forever in the face of the status quo. There must be techniques, then, that cultivate dignity, that make a person proud of oneself and the community of which they are a part, not in some superficial, “pat you on the back” way—one of the worst *insults* to dignity—but in deep, meaningful ways that offer a real sense of being proud of oneself and one’s world. Contra Hobbes, dignity is the soil of community, and a society lives or dies by creating opportunities for the dignified to come together.

Institutional punishment largely ignores the necessity of human dignity, and, more often than not, actively severs the connection between individual and society, public and private, self to self. The relationship of the self to self becomes one of shame, hatred, repression, disappointment. Already “outside” of society proper—racially, economically, politically, psychologically—punishment furthers this severance by hardening the criminal's identity, thus perverting or destroying the permeability of self to other, self to world, and the self to self. Once this identity is created the criminal is then told to become a healthy member of society once again. From the standpoint of a dignity model of punishment, high recidivism rates come as no surprise because, despite the criminal's will or even the community’s diligent assistance to help the criminal “reintegrate,” the punishment has created an entire existential and psychological substructure that precludes the possibility the criminal’s forming a dignified connection with the other or with his or her own self.

Often, the technique of shame is used in punishment. Shame is as difficult to define as dignity, but they are two sides of the same coin—when one feels shame, it throws them upon their possible

dignity, and insofar as the experience of shame becomes impossible, so too does the experience of dignity. Following Gabriele Taylor: "Loss of self-respect and loss of the capacity for feeling shame go hand in hand."[12] For purposes of this paper, I will bracket a discussion of the deep structures of the experience of shame and, keeping with the concepts operative thus far, only identify at least two major types of shame: private and public. Public shame is the type of humiliation that one has in front of others. It ranges in degrees from mere embarrassment (e.g., slipping and falling in front of a large group of people) to full blown social shame, where the person's public actions and public self are judged adversely by the society, perhaps even to the point of permanent exile. "Private" shame is that phenomenon of knowing that, through one's actions, one is not "living up to" who one is or wants to become. This type of shame also ranges from minor blows to self-esteem to what might be called a deep "existential" shame where one's primary comportment to self and to the world is one of "being ashamed." Again, the "private" is not wholly separable from the "outside" or the "social"—these phenomena do not occur exclusively in the black box of the ego; they depend very much on a certain conception of the self *in* the world, how it lives, how it acts with others. But this "private" shame is something that depends on an individual's judgment of his or her self, of being "proud" or "ashamed," and, in the case of existential shame, is extended over time, to pertain to a whole life. One may not immediately recognize this deep shame at the level of consciousness, perhaps taking years before one is able to say: "I have been acting this way because of a fundamental judgment and perception of who I am and what I am capable of, namely, a deep sense of shame over who I am."

Though an experience we seek to avoid, shame is inevitable and a necessary part of experiencing dignity or becoming dignified. Insofar as punishment seeks to "right" the relationship between the public and the private aspects of a person, or to "rehabilitate" a criminal as a member of the accepted social order, shame may be an effective tool. Often, shame is that gadfly that reminds us to live the life we are supposed to live, or it is that poke that pushes us out of our solipsistic box,

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[12] - Gabriel Taylor, *Pride, Shame and Guilt: Emotions of Self-Assessment* (Oxford University Press: Oxford, 1985), esp. chapters 3 and 5.

reminding us that we live in a world of others. As we did with dignity, we must remember that at this point, we are not making normative claims about which "world of others" one should be a part. What I call "communities of dignity," Taylor calls "honour-groups," and the group inside which one experiences dignity or shame may be just as easily be a legal and institutionalized group as it may be a criminal and marginalized group. Taylor Writes,

> The individual member of an honour-group in the setting a shame-culture can be used to illustrate this point: the relevant values are provided by the honour-code, and his survival as the person he is—which is determined by his membership of the group—depends on his accepting and living by these values. His doing so is therefore protective of the person he is. If on the occasion of his acting against the code he feels shame, then he will at least have retained a sense of what protects that endangered self. He still has some hold on the person he was, so that it is (in theory) still possible for him to regain his old position. But if he feels no shame then he will have abandoned totally the values he lived by, and will have discarded with it the person he once was.[13]

Shame is good, then, because it proves at the least that the individual still has some connection to a larger group. The danger arises when one is unable to experience shame at all, and, consequently, is unable to cultivate dignity. There is a point where shame as punishment becomes self-defeating, where it short-circuits the possibility of cultivating a healthy sense of dignity and power, thus disallowing any rehabilitation or reconnection to the larger community. Punishment often either (a) pushes the criminal to more readily identify with the criminal community of dignity, thus reversing what actions count as dignified and shameful, i.e., what is considered "dignified" by society becomes shameful for the criminal, and vice versa. Or, (b) punishment makes shame so all-encompassing that it determines *essentially* the criminal's entire being, making shame and dignity impossible. If one is constantly ashamed or in situations of shame, if one's essential judgment of oneself is permeated by shame, then it is no surprise that one would continually reject established communities of dignity and instead actively seek out spheres where feelings of shame may be minimized, and feelings of dignity and self-worth maximized. It comes as no surprise that the phenomenon of being ridiculed if successful in school, of being labeled "soft" if one has a meaningful connection with these mainstream institutions, of being violently reprimanded if one is considered a "snitch" or a "poser." "Keepin' it real," is no mere slang,

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[13] - Ibid.

but a vehement statement and rejection of a whole metaphysics, epistemology, aesthetic, and ethics. Worse is the person who "has no shame," for there is no way to connect or reconnect to anything outside of oneself. *This* is the pure criminal: the being who exists arbitrarily, randomly, as disconnected from the whole, a pure outside, truly mad, exiled, alone—in a word, dead.

It is reductive to view criminality merely through a conservative or liberal lenses, whereby the criminal action is considered either (a) an aberration, a pure "outside" of the prevailing traditions and status quo, or (b) solely the deliberate, uncompelled action of an individual—fully cognizant and autonomous and, therefore, wholly responsible and deserving of the appropriate punishment. In the criminal, many vectors collide: individual, social, psychological, political, biological. How these factors relate, balance, disperse, suture, and fissure determine the extent of crime, the type of crime, and likewise, the types of punishment that purport to "correct" the criminal. If the blame is put solely on the individual or solely on the society, if it is relegated to only the private or only to the public realm, this overlooks the fact that criminality, honor, shame, dignity—all those things that both threaten and make possible genuine community—are not simple and essentialized substances that one possesses, but a complicated field of *relations* that one is caught up in, relations that are constantly in flux and difficult to grasp, relations between the self, the world, the community, yesterday, today, tomorrow.

Strategies that approach punishment and rehabilitation from this "substantivized" standpoint believe that there exists some thing that the criminal has "lost," and that the task of punishment is simply to give that thing back, or to create a new thing entirely. Thus, most programs are concerned more with giving or substituting some kind of final "answer" to the "problem" of the criminal, either by teaching the criminal some technical skill (usually one that is obsolete) thus making them "useful" to society, or by giving them some absolutist, foundationalist foothold (usually through evangelical "outreach" programs) whereupon the criminal is expected to stand forever firm against a hostile, ever-changing, indifferent (ultimately, unreal) world. For some, this works just fine; for many, they

inevitably slip back into criminality, back into the prison, because there, a semblance of "home," community, and dignity might at least seem possible.

To be "useful" is not to be dignified. In fact, to be *merely* useful is perhaps something that stands directly opposed to an authentic sense of dignity. Usefulness, the ability to excel at a technical skill or to have a job is certainly *part* of what it ultimately means to live a life of dignity, but it can also be a way to stultify a person's authentic engagement with the world or oneself, to reduce one to an anonymous cog, to always repress, exploit, diffuse their creative and erotic energy in non-dignified, shameful ways. Likewise, to have some ready-made *a priori* paradigm wherein one fits one's experiences precludes any real engagement with the world and, I argue, a robust sense of dignity. The possibility of exercising one's creativity, spontaneity, and unique power becomes impossible or, at best, greatly minimized. Indeed, it is very convenient and easy to have the already available answers that provide that necessary ideal that one strives to become. But these foundationalist and absolutist paradigms are always external, and though dignity must include the encounter with the external, the world, the other, it must also remember that its germinal seed is an expression of an irreducibly unique *individual* power. To have the answers ready-made, to have all possible courses of action always already mapped is to paint-by-numbers. Indeed, just as art needs discipline and certain guardrails so that it may be fully realized, so too dignity needs perches and pragmatic points of departure and rest. But, insofar as dignity is a judgment and a power, it is related to the aesthetic: if there is no "artistic" genius, there is no possibility for dignity if the parameters are so rigid that they cannot adapt and evolve in relation to changing desires, changing worlds, changing communities.

Dignity and Punishment

Punishment becomes, then, not merely a technique that rectifies a wrong, that attempts to settle a debt created by a criminal act of transgression, but something that primarily seeks to redefine the relationship of the punished to themselves and to their society. Insofar as punishment purports to

"rehabilitate" or "reintegrate" the criminal "back into" (whether or not they were every fully part of society in the first place is another question entirely) then it must take this question of dignity seriously. If dignity is partially defined by the social, the objective, the judgment of a self that is dialectically related to the judgment of others, the cultivation of a creative power that allows one to engage in a meaningful way with their world and their community, then a theory of punishment that ignores or does not actively create these connections ultimately fails. A person with no dignity, a person who has no conception of a self outside of himself, whether it is a self to become or a self that is connected to the other, *necessarily* cannot be a fully recognized member of society. In order to "rehabilitate," to put a criminal back "into" society, dignity must be present, must be cultivated. It is self-defeating and an outright contradiction to try to rehabilitate while at the same time malnourishing that dignified part of a person—a part that *wants* to connect to the other and to the world—at the same time.

Of course, much of recidivism can be explained by overwhelming systemic hurdles, the "hardening" of the criminal while in prison (which often dooms one to repeat a more violent crime), as well as other situations that are not immediately connected to particular theoretical paradigms of punishment. But these bureaucratic and empirical facts cannot be ignored in the calculus of dignity. A criminal may undergo a genuine "transformation" from the experience of incarceration, may have developed a robust sense of dignity, a dignity that perhaps was made possible by the painful experiences of diremption and severance from family and community. But dignity needs a medium, and it must still act in that *space* between individual powers and social recognition. If the opportunities for expressing one's confidence, hope, and unique ability in a meaningful way are minimized or eliminated altogether, dignity does not obtain, and the criminal does not suture themselves into the fabric of society, and perhaps is fated to forever be defined as an outsider, an exile, a criminal. All of this is very difficult, and we cannot forget the crucial role that Fortuna often plays as she indifferently swings her rudder through equally indifferent waters—theoretical analyses and institutional change will never fully take the tiller and steer the boat clear of threatening storms. But the "problem" of the

criminal reveals many of the problems of our shared world—political, economic, educational, social. To ignore this problem, to analyze it in superficial and reductive ways, to treat the criminal as undignified, or as incapable or unworthy of dignity, is to not take seriously the question of dignity in the first place, the dignity of our society, our communities, our work and, above all, the dignity of our very selves. We do so at our own peril. This is precisely why Rawls insists that dignity is so crucial for social justice. To conclude with his words:

> Without [dignity] nothing may seem worth doing, or if some things have value for us, we lack the will to strive for them. All desire and activity becomes empty and vain, and we sink into apathy and cynicism. Therefore the parties in the original positions would wish to avoid at almost any cost the social conditions that undermine self-respect. The fact that justice as fairness gives more support to self-esteem than other principles is a strong reason for them to adopt it.[14]

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[14] - John Rawls, *A Theory of Justice* (Harvard University Press: Cambridge, 1971), ch. 67.