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DISCUSSING MULTICULTURALISM

Frank Tu

Introduction

Culture has always been a remarkably complicated topic to discuss because there are virtually no ways to ascribe an encompassing “culture” to all of its members. Or in other words, culture varies vastly depending on both collective and individual perspectives. One may be born French yet spent most of his or her life in Japan. Will that make one French or Japanese, or both or neither? Similarly, does an upper-class African American man in Manhattan have more in common with an upper-class white American McKinsey consultant? Or does he feel closer to a black coal miner in Wisconsin?

The answers to these questions really depend on our, and those particular individuals’ perspectives. How we view our own identities and how others view ourselves are both important determinants in identifying to what culture we belong. Several sociologists argue that the relation between the *self* and the *others* should be fundamental in theorizing identities. These identities allow people to position themselves in various ways in relation to the field of culture (Duveen, 1993; Marková, 2007). Sapir (1922) asserts that, individuals do not merely absorb their culture, but instead proactively “borrow” various cultural traits, refashioning these traits to develop their own identities.

As a result, it also complicates the understanding of *multiculturalism* – a term concerning how to comprehend and respond to the challenges associated with cultural and religious diversity. Multiculturalism uses the diversity of culture as the basis to justifying preferential treatment to marginalized cultures. However, since the concept of *culture per se* changes depending on perspectives, the justifications for special accommodation, or in other words, for *multiculturalism* also come with great conceptual challenges.

In this short paper, I discuss the justifications for multiculturalism, based on its various definitions. I argue that the case for multiculturalism can be convincing to various extents, depending on what definition of multiculturalism is adopted. Under the most basic definition of multiculturalism as a just multicultural society (Segal and Handler, 1995), I insist that the

promotion for multiculturalism is unarguably just, given that all societies are effectively multicultural. However, this definition might not go far enough as it mainly focuses on equality while neglecting equity. I also discuss a more widely used definition of multiculturalism, which is mentioned in Song's (2010). Referring to the most persuasive justifications, I assert that multiculturalism can still be justified under this definition. I also identify the drawbacks of such justifications. Finally, I modify the definition of multiculturalism in order to balance out those drawbacks.

Justifications of multiculturalism

The definition of multiculturalism takes multiple forms. According to Segal and Handler (1995), the most basic definition of multiculturalism is a *just* "multicultural" society. Under this basic definition, there are formidable reasons to defend multiculturalism as a way to achieve a just multicultural society. First, all societies are multicultural. Oftentimes we think of culture at the macro level, such as the American culture, the Japanese culture. However, the concept of culture is remarkably more complicated than that, as culture can be perceived very disparately, depending on perspectives. How we perceive culture can result in the infinite diversity of this concept. For instance, there exist also regional cultures, religious cultures, cultural differences by age, cultural differences by income, cultural differences by sex, and many more.

Given the complexity and diversity of culture, it is irrefutable that providing a fair society for all of those cultures is the only way to ensure justice. That is to say, multiculturalism understood as a push for a just multicultural society can definitely be justified. Parekh (2005) argues that since extensive cultural diversity is a fact of modern life, every modern multicultural society needs to find ways to accommodate diverse demands without sacrificing its cohesion.

However, this definition of multiculturalism evokes two aspects: equality and equity. On the one hand, equality refers to the notion that "everyone shall have the same." On the other hand, equity is associated with "fairness, impartiality, and justness." (Herrera, 2007). Thus, while multiculturalism is justified under this definition, it only suggests justifications for accommodations in terms of equality. Since all societies are multicultural, all sub-cultures of a society should be treated equally. However, some may claim that simple equality is not enough. Code (1986), argues that pushing for women to be equal with men implies that men and the male point of view are superior. Besides, history also has a crucial role in claiming that merely

granting equal access to everyone is not sufficient. For instance, the Native Americans or nationals of former colonies arguably have a strong moral basis to demand for accommodation. Thus, more weight should be given to marginalized, disadvantaged groups so as to achieve better equity. Under this definition, the claims for multiculturalism are not comprehensive, yet multiculturalism can still definitively be justified as it recognizes the diversity of cultures, and at the very least, this definition lays grounds for the promotion of equality.

The narrower and widely-used definition of *multiculturalism* is “an umbrella term to characterize the *moral and political claims*, involving various aspects such as *religion, language, ethnicity, nationality, and race*, of a wide range of marginalized groups, including African Americans, women, LGBT people, and people with disabilities” (Song, 2010). This definition also focuses on the goal of promoting a just society for all cultures; however, it gives more attention to the discriminated groups, and entails a wide range of justifications.

Under this definition, the most convincing argument for multiculturalism is based on historical injustice and a postcolonial perspective. This argument states that the history of state oppression of a group should be a critical factor in justifying the political and moral claims of the oppressed group. Evidently, there is an indisputable basis to advocate for multiculturalism in countries like France, given France’s history of colonialism in Africa and Southeast Asia; or the U.S., given its intervention in many Middle Eastern states and Vietnam. First, colonialism was a profoundly unjust system, under which the colonies and their cultures were wrongfully exploited and oppressed. Colonialism’s footprints are long-lasting, and its impact detrimental. Those who had to flee their native countries in the past, as well as those who recently immigrated to a former-colonizer, have every right to demand not only equal treatment but also preferential accommodation. On the other hand, former colonizers have all the responsibilities to accommodate nationals of their former colonies, for the oppressed countries’ lives and wealth were wrongfully taken away.

Another argument for multiculturalism concerns the doctrine of civic republicanism – freedom from domination. Advocates of this *freedom from domination* argue that “we can be unfree even when we are not experiencing any interference as in the case of a slave of a benevolent master,” because “we are dependent on another person or group holding some measure of arbitrary power (or domination) over us.” Since the minority groups are more likely to be subject to such domination, be it arbitrary or deliberate, it is reasonable to support multiculturalism - or political and moral claims of minority groups (Song, 2010). This argument

is seemingly solid since there is indeed a correlation between income inequality with race, ethnicity, and gender. However, the issue with this argument is that it does not differentiate between members of such minority groups. In other words, is it essential to grant special treatments to an upper-class, wealthy African American just because of his or her skin color? This is an often-debated issue of Affirmative Action Policies. Affirmative Action is a social policy that provides underrepresented groups with more opportunities to get on well in life. For instance, in the US, Affirmative Action policies are intended to offer African Americans or women more quotas at universities. However, some argue that, at times these privileged opportunities go to those who need them least, for instance more wealthy members of the minority groups (Kennedy, 1986). Therefore, while *freedom from domination* appears to be a strong justification, limiting it only to cover minority groups presents, yet, a loophole that undermines its persuasiveness. I discuss more on this in the next section.

Next, the communitarian argument takes the following logic:

1. Our identities are formed in dialogue with our social interactions with others.
2. The absence of recognition of one's identity can cause serious injury.
3. Culture has an indispensable role in the development of identities

→ **Therefore:** we should adopt the presumption of the equal worth of all cultures.

Although the communitarian argument might hold in theory, especially when considering culture *per se*, it is not sufficient in justifying multiculturalism – the political and moral *claims*. The reason is, this argument does not explicate which claims deserve more attention. Song (2010) mentions the example of preserving the French culture in Québec; however, doing so implies that Quebec is prioritizing the dominant French culture over other minority cultural groups, since there are also other cultural minorities living in Québec as well. One can argue whether it is an appropriate policy, yet the argument proves to be weak in justifying for the claims that should be promoted.

Drawbacks

That said, adopting the definition of multiculturalism “claims, involving various aspects such as religion, language, ethnicity, nationality, and race, of a wide range of marginalized groups”

entails several drawbacks. First, the argument for multiculturalism based on historical justice can travel only to cases that have historical connections with each other. It is less convincing to justify cases that have little history of oppression against each other, for instance, France and Japan, based on historical injustice. The scope of this argument is narrow, yet it enjoys high internal validity.

Next, it can be argued that *freedom from domination* has a broad scope, which does not only limit to cultural minority groups but also members of the majority group as well. For instance, during eight years of Obama's administration, although there was a remarkable increase of media and political attention towards minority groups. On top of that, with globalization, automation, mass immigration, much of the oxygen has been sucked out of the public discussions regarding poor white working-class people (Weir, 2017). This lack of attention to the white working-class makes a lot of them feel left out and left behind. This example also identifies a problem with the concept of *culture* and *culturalism*; that is, by focusing on broader identities based on race, gender or religion, one might neglect members of a broad culture who have their own disparate identities. Freedom from domination, thus, can function well as a justification for multiculturalism, but it should not only confine the attention to certain marginalized groups.

On the other hand, although it is generally true that, since members of minority groups are disadvantaged in terms of access to their own cultures, they are entitled to special protections. Nevertheless. This, again, raises conceptual concerns. First, how to define one's *own culture*, and moreover, how to define *minority cultures*? Should it be based on religion, nationality, or other aspects? This definition of multiculturalism, based on a pre-defined list of disadvantaged minority cultures, is again undermined by the perspective argument.

Regarding the question posed at the beginning of my paper, although an upper-class African American might share the same identity of being African American with a working-class black coal miner, he might have more in common in terms of hobbies, education..., with an upper-class white American. And thus, from a cultural viewpoint, the upper-class African American man may be more aligned with upper-class white Americans. Therefore, again, depending on perspectives, one own's culture may change; and in addition to perceiving cultures based on religion, nationality or skin color, other factors such as social class should also be considered.

Finally, identity, culture and multiculturalism are interconnected, because collective identities constitute cultures, and culturalism is concerned with a political push based on the diversity of culture. And identity politics is a very dangerous approach. Identities are, first and foremost, not fixed. Our identities are constantly in flux, and identity groups are something we choose to belong to (Patterson, cited in Hobsbawm, 1995). Of course, there are collective identities based on more objective factors such as biological sex, nationality. However, these collective identities alone do not necessarily constitute a “culture” for all of its members. Thus, by making claims for all members of a group based on broad factors such as religion, race might indeed deny individual identities.

Then, in order to advocate for claims of some particular groups, we risk pitting people against each other, resulting in *us-versus-them* situations. According to Hobsbawm (1996): “We recognize ourselves as ‘us’ because we are different from ‘them.’ If there were no ‘they’ from whom we are different, we would not have to ask ourselves who ‘we’ were”. Political leaders are incredibly skilled at using identity to pursue a political agenda. Nevertheless, this comes with a risk: identities could be used to push for better changes as what Martin Luther King did, or it can be used in extreme cases as in the Rwanda genocide. Hintjens (2001), accurately explains how identity became a knife in the genocide in Rwanda two decades ago. Hintjens (2001) argues that it was through political identities that the Rwandan government manipulated the Hutu against the Tutsi, leading to a dark chapter in humans’ history. On a related note, Storr (1991) also points out that in times of trouble, “nothing unites a divided society so effectively as identifying a common enemy.” It is a common tendency for political leaders to rally supporters through identities. However, such an approach might risk alienating people and creating grudges. The demand to provide free healthcare for even undocumented immigrants in the U.S. might upset working-class Americans who are suffering from housing and education expenses. Besides, it is almost impossible to have policies that equally protect all cultures. For instance, while adopting the language of the majority as the official language might discriminate against minority groups, officializing minority languages might lead to cultural separation within one country.

In this sense, we might still be able to justify multiculturalism since there are legitimate demands that need to be promoted, such as political demands for African Americans in the Civil Rights Movement, or the marriage equality for the LGBT community in the U.S. However, multiculturalism under this definition needs to be promoted with extreme caution since it involves the use of identities in politics, which is a dangerous double-edged sword. The reason

is, by adopting a predefined list of disadvantaged cultures, we risk completely neglecting the other also marginalized cultural groups, thereby pitting people against each other.

Modified definition of multiculturalism

In light of these drawbacks, it can be argued that multiculturalism can be better justified if we modify its definition from “*moral and political claims, involving various aspects such as religion, language, ethnicity, nationality, and race, of a wide range of marginalized groups, including African Americans, women, LGBT people, and people with disabilities,*” to “*moral and political claims, of a wide range of disadvantaged groups.*” This definition will give greater leeway to counter the perspective argument. Or in other words, as long as a culture is (self)perceived to be disadvantaged, it deserves special accommodation.

Adopting this definition would achieve three goals: 1) give more weight to disadvantaged groups, thereby ensuring equity and justice, 2) minimize the identity politics aspect of multiculturalism, and 3) avoid alienating the disadvantaged who are widely perceived as belonging to the majority.

If we agree with the premises that a) culture can be conceptualized based on multiple aspects rather than exclusively *religion, language, ethnicity, nationality, and race*; and b) disadvantaged cultures should be protected, then the modified definition of multiculturalism can provide justifications to accommodate not only minority groups based on *religion, language, ethnicity, nationality, and race*, but also those who seemingly belong to the majority but are self-identified as members of the minority. By doing so, we divert the attention towards protecting all disadvantaged groups, which the gender, racial, and religious minorities *tend* to (but not exclusively) belong to. We also create a more encompassing identity- *the disadvantaged*, instead of the scattered existing configurations, thereby minimizing the divisiveness of identity politics.

Conclusion

All things considered, I am in favor of multiculturalism, in all of its definitions. First, it is a fact that all societies are multicultural because the concept of culture goes beyond all the traditional factors that are often used for its conceptualization. Therefore, the most fundamental claim is

that all cultural diversity must be respected and protected equally. Then, some marginalized groups based on *religion, language, ethnicity, nationality, and race* may require further preferential treatment for the sake of equity. This accommodation can be convincingly justified by historical injustice. There is no feasible way to argue against this justification of multiculturalism. I also believe that, in general, cultural minority groups have been indeed underrepresented in politics. Thus, there need to be policies to protect these cultures better and help their members integrate into the society. These minority cultures and their members, in general, still have not achieved equality with the majority, much less equity.

For this reason, although the push for special treatment for minority groups might indeed come at the expense of some members of the majority, I still believe that it is still worth fighting to establish an equal playing field for everyone. For instance, while the promotion of feminism, or equal pay for equal jobs in particular, might make some men feel left out, in general, women are still paid less than men. Thus, it is reasonable to at least correct this gender-based income inequality.

Multiculturalism and the claims for special protections and treatments, for marginalized groups, are legitimate. In this position paper, I discussed various conceptualizations of multiculturalism. I predicated my paper upon the complicated concept of culture and identity. I asserted that culture, identity, and multiculturalism are interconnected, and vastly influenced by different perspectives. There are no straightforward ways to ascribe an encompassing a culture to all of its members. And since identity politics is a risky approach to demand for greater political prerogatives, multiculturalism should be promoted with great caution. However, overall, I argued that multiculturalism can be justified under all definitions.

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AN INVESTIGATION INTO LOCAL AND INTERNATIONAL MEDIA COVERAGE OF GLOBAL TERRORIST ATTACKS IN EGYPT AND THE UK

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ABSTRACT

Since 2014, there has been a growing concern at the violence and the terrorist attacks perpetrated by the Islamic State (IS) against civilians in Egypt and the United Kingdom. Within the context of media discourse, many researchers have examined the relationship between discourse, power and ideology, media patterns, metaphors and myth. Discourse on the war on terror and the construct of terrorism have all been the focus of some attention, response, and reaction to terrorist attacks, definitions of terrorism, policy questions, media portrayals of terrorism, and framing across different media and nations. This study aims at examining the coverage of IS terrorist attacks in four leading Egyptian and British news platforms. By combining quantitative and qualitative methods, the study undertakes a framing analysis of media coverage of terrorism via using ,respectively, Shoemaker and Reese's (2014) patterns of media content and Huckin's (2002) CDA model. Findings reveal that Muslims are still stereotyped in the western context and Christians and Sufis are represented as persecuted ethnic minorities in Egypt. In addition, findings reveal that most of the news platforms still resort to quoting from official sources at the expense of the voice of the public which depicts human sufferings that are seldom brought to the attention of the public.

Key words: AlRawda Mosque, CDA, Critical Discourse Analysis Media coverage, Framing, IS, ISIS, Manchester Bombings, Palm Sunday twin bombings, Patterns of media content, Minya Bus attacks, London Bridge attacks, Terrorist attacks

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- Prof. Abeer Mohamed Refky ,Dean of the College of Language and Communication at the Arab Academy for Science, Technology and Maritime Transport,
 - Dr. Marwa Mohamed ElZouka, Associate Professor ,English Department, Faculty of Arts, Alexandria University,
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-

Introduction

Since September 9/11, terrorism has taken another shape in the history of mankind. Parallely, the growing concern of the media to report and cover subsequently the news has received considerable attention from scholars across the world. In 2001, more than seven hundred stories were published locally and internationally in only one day (Gadarian, 2010). After ten years, the Islamic State (IS), a terrorist organization, grew out from the convulsions of the Iraqi war (2003–2011), the Arab revolutions (2010-present) and the civil war in Syria (2011-present). Three years later, IS proclaimed its first state.

The organization captured the attention of a wide international audience from different parts of the world through their widely barbaric acts which shocked humanity. IS's strategy was built around a millenarian vision executed "with an uncompromising and merciless ideological approach, aimed at the establishment of an enduring caliphate" (Oosterveld and Bloem, 2017, p.5). The long-time Middle Eastern affairs observer and analyst, Patrick Cockburn, holds that "the birth of the new state is the most radical change to the political geography of the Middle East since the Sykes-Picot Agreement was implemented in the aftermath of the First World War" (Cockburn, 2014, p.5). According to Cockburn (2014), the key to the terrorist group's success was initially grounded in a focus on the 'near enemy', but later evolved towards targeting the 'far enemy' as well (p.5). The paradox of IS rests in the idea that while it aims at creating a 'state' that rejects the Western ideology, it has adopted many of the trappings of the Western statehood. IS's paradox also lies in their targets. Though scholars claim that the terrorist acts have been committed by the Islamic extremists, it is not surprising that Muslims are frequently portrayed in the media as perpetrators of terrorism. It is often ignored though that most victims of the terrorist operations are Arabs and Muslims (Perl, 2007).

IS carried out terrorist attacks everywhere: ranging from Egypt and Iraq to Madrid, France, the UK, and the US. Tracing from 2014 to the present moment, statistics show that the heights of the group terrorist attacks, outside their dominant region, were only in two countries in 2017: the UK and Egypt. (See: Table No 2). Such an unprecedented rate of terrorist attacks was accompanied by a parallel exceptional rate of media coverage, which was galloping to inform the public.

Although numerous studies focus on the relationship between media (TV, newspapers, movies, etc.) and terrorism (Dowling, 1986; Banuri, 2005; Peresin, 2007), few have paid attention to media coverage of terrorism in Arab and Muslim countries. In addition, a very few have

compared between the media coverage of terrorist attacks taking place in Western and Arab countries (Schønemann, 2013). There is a dearth of theoretical evidence concerning whether Arab and Western media accurately reflect the factual fore and background of events without portrayals of Muslims, Christians or victims in general (Schønemann, 2013). In addition, since the western media has a history of stereotyping Muslim and Arab males as uncivilized, ignorant, and violent particularly after the 9/11 terrorist attacks, another important question is whether Arab media are more balanced than their western counterparts in labelling terrorists, victims, and perpetrators of political violence (Schønemann, 2013).

This study aims at investigating media and language interplays in the Egyptian and the British news platforms. It examines the reporting and the linguistic choices made in the selected news articles spanning one year, to report major terrorist attacks perpetrated by the IS terrorist group. By selecting one hundred and twenty-two news articles, the study first identifies the patterns of media content as classified by Shoemaker and Reese (2014) where sources, themes, topics, geographic and demographic patterns are analysed. Moreover, by employing Huckin's (2002) CDA model, linguistic features and a frame analysis on the word, sentence, and text level are determined and analysed.

The analytical focus of the study necessitates acknowledging the extent to which reporting on these terrorist attacks extended, challenged or minimized the dominant media portrayals and the patterns of media content. To this end, the study attempts to address the following three empirical research questions:

1. What are the patterns of media content employed in the Egyptian and the British news coverage of IS terrorist attacks?
2. What are the dominant frames employed in the Egyptian and the British news coverage of IS terrorist attacks?
3. How different or /and similar is the reporting of the 2017 IS attacks in Egypt from its counterpart in the UK?

Contextual Background

Much of the early work analysing the relationship between the media and terrorism is subscribed to a belief that terrorists seek publicity in media to advertise for their cause through acts of violence (Wilkinson, 1997). The studies of terrorism and media and related topics like political violence, prejudice, and discrimination have increased significantly in recent decades marking the role of the media in covering terrorist attacks happening frequently in many parts of the world.

Terrorism in Egypt and the UK

In modern history, terrorism in Egypt dates back primarily to the eighties of the last century with the assassination of the late President Anwar Al Sadat by a group of jihadists (Precht, 2007). The nineties sparked an Islamist insurgency with the rising number of terrorism attacks against high-ranking figures in the government like the death of Refaat Mahgoub (Head of the Lower People's Assembly) and famous writers and thinkers like Naguib Mahfouz and Farag Fouda in 1990 and 1992 respectively (Reuters, 2017). Various reports showed that the highest rate of attacks against tourists took place between 1992 and 1997 where almost a deadly terrorist accident took place every month (Reuters, 2017). Then there followed years of relative peace in Egypt with a slowing but steady pace of attacks every now and then until 2011 (Ouf, 2017).

Between 2011 and 2014, Egypt had its own share of the Arab Spring when Jan the 25th, 2011 revolution swept across the country. In the midst of multiple scenes of turbulence and unpredictable events, Egypt was a platform for many non-state actors to play on its ground. The rise of the Muslim Brotherhood, after Morsi came to power, gave much power to all Islamic groups and militias to exercise power and to grow expanding in many parts in the Arab world (Hellyer, 2017). Nevertheless, after nearly two years of political upheaval in Egypt, instability prevailed and anti-government violence was more commonplace. "The ousting of Morsi in July 2013 created another wave of terrorist attacks against almost everyone"; police forces, Christians and Muslims (Hellyer, 2017, p.23). It was evidently clear that Egypt was influenced and was highly affected by the radical fighters who fled from Syria, the Gaza Strip and Libya and this created golden opportunities for militias to cooperate and smuggle weapons (Ouf, 2017).

In November 2014, the Sinai Peninsula-based terrorist group formally known as Ansar Bayt al

Maqdis (*Companions or Supporters of Jerusalem*) declared its allegiance to the leader of the Islamic State Organization (IS, aka the Islamic State of Iraq and the Levant, ISIL/IS), Abu Bakr al Baghdadi, and changed its name to the Sinai Province (*Wilayat Sinai*) of the Islamic State (IS-SP) (Zahid, 2014). This meant that terrorist attacks would be expanded waging an insurgency against the Egyptian military for years.

From 2014 to 2017, Egypt was hit by several attacks from IS and its affiliated group Ansar Bait El Makdas (*Companions or Supporters of Jerusalem*). As presented in the table below, the deadliest was in October 2016 when IS's Egypt affiliate bombed a Russian airplane, killing 224 people and the *Rawda* Mosque in November 2017 which claimed the lives of 306 Egyptians.

Table 1: IS Attacks in Egypt between 2014–2017

July 2015	<p>July 2015 Sinai clashes</p> <p>Members of the Wilayat Sinai launch attacks on military checkpoints and a police station in and around the town of Sheikh Zuweid in North Sinai</p> <p>21 (soldiers) and 241 (militants) killed, several dozen escaped</p>
January 2016	<p>Cairo bombing</p> <p>Car bombing of the Italian consulate building in Cairo</p> <p>Hurghada attack</p> <p>Stabbing attack targeting foreign tourists at the Bella Vista hotel in Hurghada.</p> <p>Two perpetrators killed by police.</p>
April 2017	<p>April 2017</p> <p>49 dead and 136 injured 2017 Palm Sunday church bombings</p> <p>Suicide bombings at two churches on Palm Sunday in the cities of Tanta and Alexandria</p>
May 2017	<p>Minya attack</p> <p>Masked gunmen opened fire on a convoy carrying Coptic Christians traveling from Maghagha in Egypt's Minya Governorate.</p> <p>28 dead and 22 injured</p>
November 2017	<p>2017 Sinai mosque attack</p> <p>Attackers launched rocket propelled grenades and opened fire on the worshipers during the crowded Friday prayer at al-Rawda near Bir alAbed.</p> <p>311 dead and 128 got injured</p>

Egypt is still increasingly facing such new threats as the country continues to adjust to a new political reality following five years of political upheaval and overwhelming demographic and economic pressures. As a result, Egypt has struggled to adjust to new regional realities and craft a new strategic rationale to counter terrorism to meet the challenges and threats of the 21st century (Ragab, 2018).

With regard to terrorism in the UK, it is becoming an increasing concern for the Europeans, with the UK’s own threat level set at “severe”, but the figures show that Europe is one of the safest areas in the world for terrorist related incidents. While there have been several large attacks in Western Europe in recent years, the number of people killed by terrorism in this region is relatively low compared to other parts of the world. As illustrated in Figure (3), the Global Terrorism Index (2017) found that 38,422 people were killed in terrorist attacks across the world in 2015. The majority of these were in the Middle East and North Africa, where 17,752 died in terror attacks. Sub-Saharan Africa was the next worst-hit, followed by South Asia. Since 1970, the index has counted 106,539 deaths in this region, out of a worldwide total of 348,759 compared to 6,400 deaths in Western Europe (Global Terrorism Index, 2017).

Such a brutal wave of terrorism has been dramatically intensified in the UK from 2008 to 2018. The chart below shows that 2017 witnessed the utmost severe attacks of terrorism on the UK soil, starting from Westminster Bridge, the Manchester Arena and ending with the bombings of the Parsons Green Explosion.



Figure 1. The heights of the terrorist attacks in the UK in ten years (The Guardian, 2018)

The chart displayed above shows a gradual increase in the terrorist attacks from 2014 to 2017 with the rise of the Islamic state. 2017 specifically saw a step change in the terrorism threat

posed by both Islamist and Far Right extremists, with five successful attacks in the UK, causing 36 deaths and over 300 injuries (Stewart, 2018).

The Islamic State (IS)

IS or its Arabic word Daesh, which stands for the Islamic State in Iraq and Syria (ISIS) is the world's leading body nowadays with every breaking news streaming videos, statements and actions about the group's radical activities. It stretches out of the fourth wave movement which embraces *jihadism* as its core value to take operational command of the global jihadist movement, eclipsing AlQaeda (AQ), which attacked the US homeland on September 11, 2001.

Over the course of 2013–2014, IS seems to appear from nowhere in Iraq which has been reckoned and weakened by the US invasion in 2003 and has crippled the country to its knees (Khoury, 2017). The jihadist organization captured the attention of international audiences through acts of barbarity, and heinous human crimes followed by the proclamation of its own state and upending state borders in the process (Khoury, 2017). Cockburn (2014) wrote “the birth of the new state is the most radical change to the political geography of the Middle East since the Sykes-Picot Agreement was implemented in the aftermath of the First World War” (p.5).

The Arab spring and the chaotic environment it has created paved the way for Abu Bakr al-Baghdadi, the leader of IS in 2013, to consolidate his control over swathes of territory on both sides of the Syrian-Iraqi border (Cockburn, *ISIS Consolidates*, 2014). On June 29, 2014, he proclaimed the Islamic State as a worldwide organisation and it gradually swept many parts in the region. Mosul was taken hardly without a fight. A year and a half later, the UN Security Council declared IS “a global and unprecedented threat to international peace and security” (Khoury, 2017, p.6).

The group's ideology grassroots is founded along the fundamentals of Sharia Law in Islam, claiming to establish an Islamic state called a caliphate across Iraq, Syria, and beyond (Stewart, 2018). The Sharia Law the group follows is rooted in eighth century Islam as they believe they are establishing a society that mirrors the region's ancient past and the caliphate's past eras. Even though IS has been able to attract hundreds of people worldwide, Muslim scholars and researchers defy their claim as they countered this ideology in their speeches and Islamic teaching.

Gambhir (2015) an analyst at the Institute for the Study of War, states that the Islamic State has categorized the expansion of IS beyond its base in Iraq and Syria since 2014 to three parallel tracks: first inciting regional conflict with attacks in Iraq and Syria; second, building relationships with jihadist groups that can carry out military operations across the Middle East and North Africa; and third inspiring, and sometimes helping, IS sympathizers to conduct attacks in the West. Concerning the former tracks, it will be noticeable that most of the attackers who carried out the bombs in Egypt or in the UK were just sympathizers and were inspired by IS.

What explains the rise of IS and perhaps its current fall is a question which runs in the heads of major world leaders as well as ordinary laymen. It sheds new light on a compelling account of the deeper conditions that fuel IS and whether it should be part of the militant Sunni revival which IS claims is adopting its goals to resurrect a caliphate and rid “Islamic lands” of all Shia and other minorities. Unlike any other terrorist wave or movement, IS’s enemies are unpredictable. It stretches beyond any border, not only to include the Shia, the Iraqi and Syrian lands, and secular, pro-Western states in the Middle East, but also in major attacks in Europe and other places beyond the Middle East, making it clear that the group is increasingly interested in targeting the “far enemy” as well.

Methodology and theoretical framework

The study opts to use quantitative and qualitative approaches via using content analysis and critical discourse analysis. The data collected in this study consist of one hundred and twenty-two articles from four news platforms in international news coverage where the language used is English. The news platforms selected are the *BBC News* and the *Mail Online* representing the broadsheet and tabloid types of articles respectively in the British context, as well as *AlAhrum Online* and *Egypt Independent* representing the broadsheet and tabloid types of news articles in the Egyptian counterpart. The six terrorist attacks are classified according to the table shown below (Table 2). Given the chosen material, identifying the dominant media patterns are examined cross-culturally in the four news platforms using Shoemaker and Reese’s (2014) theoretical framework. Then, Huckin’s (2002) CDA linguistic analytic framework is employed to analyse the text in three levels of analysis: word /phrase level, sentence level, and the text level.

Data sampling

The data sampling of this study lies in extracting a large number of data set materials of articles using a computer-generated tool, LexisNexis. The study uses this web data search tool to extract all related articles in the UK, whereas, the Egyptian articles are extracted via using the search engine in their online news platforms. In both cases, certain keywords have been typed in the search engine to extract the relevant data, for example: terrorist attacks, IS, claimed responsibility, Sinai Clashes, the Manchester Arena, Coptic attacks in Alexandria, the Minya attacks.

This study is set around IS's terrorist attacks in the two countries: Egypt and the UK in 2017. The time frame (2014–2017) is determined from the time IS declared itself a caliphate in 2014 with a political and religious territory spreading across Syria and Iraq. This period witnessed major terrorist attacks inside the UK and Egypt. The following timeline tracks the incidents whose responsibility was claimed by IS in both Egypt and the UK.

Table 2. IS attacks in Egypt and the UK between 2014–2017

Year		United Kingdom	Egypt
2017	Date	a. 22 March 2017	a. 9 April 2017
	Attack	It is known as the Westminster Attack	It is known as Palm Sunday twin bombings.
	What happened	Carmows down a group of people outside Westminster Palace before assailant stabbed police officer to death	Suicide bombings at two churches on Palm Sunday in the cities of Tanta and Alexandria.
	Death and Casualities	Police officer stabbed to death .Perpetrator killed	49 dead and 136 injured
	Date	b. 22 May 2017	b. 26 May 2017
	Attack	Manchester Arena bombing	It is known as the Minya Bus attack.
	What happened	Suicide bombing targeting concert goers at the Manchester Arena at the end of an Ariana Grande concert. The bomber, Salman Ramadan Abedi, 22, was born in Manchester to Libyan parents.	Masked gunmen opened fire on a convoy carrying Coptic Christians traveling from Maghagha in Egypt's Minya Governorate. Perpetrators caught. ISIS claims responsibility.[20]

	Death and Casualties	Twenty-three people were killed, including the attacker, and 139 were wounded, more than half of them children.	28 dead and 22 injured
2017	Date	c. 4 June 2017	c. 24 November 2017
	Attack	It is known as London Bridge Attacks.	2017 AlRawda mosque attack in Sinai
	What happened	A white van hit pedestrians on London Bridge, then three men got out and stabbed people in nearby Borough Market.	Attackers launched rocket propelled grenades and opened fire on the worshippers during the crowded Friday prayer at al-Rawda near Bir alabed.
	Death and Casualties	7 dead and 48 injured	311 dead and 128 got injured

Six fatal terrorist attacks happened in both countries which resulted in the death of more than 500 people and more than 1100 casualties (Global Index, 2017). Hence, the six IS terrorist attacks which are under discussion in this study are Palm Sunday Twin Bombings, Minya Attacks and the AlRawda Mosque bombings in Egypt, and the London Bridge Attacks, Westminster Attack and Manchester Arena bombing in the UK. This explains why the study has opted to choose only 2017 as the deadliest year of IS attacks.

Findings and Conclusion

In answer to the first research question, what are the patterns of media content employed in the Egyptian and the British news coverage of IS terrorist attacks?, the study concludes the following. Topics and themes vary dramatically across the four platforms depending on which terrorist attack is covered and by which news platform. The dominant topics for IS terrorist attacks in Egypt are prejudiced towards local and international condemnation and how the military forces have responded. Although police officers are involved in saving the victims and preventing more attacks, they are scarcely mentioned. On the other hand, the British terrorist attacks are predominantly undertaken from a humanitarian side by displaying human stories of the victims and of members of parliament. In contrast to the Egyptian counterpart, the British news platforms are successful in shedding light on the role of the police officers and the security measures which are taken to protect the British citizen, as a main topic to dwell upon.

When it comes to the theme of the WoT (War on Terrorism), the four news platforms stand on an equal basis towards their governments' reaction. In the Egyptian context, the news platforms, though belonging to different ideologies and ownerships, supported the Egyptian government stance at the time when the country launched air strikes on Libya and when it declared emergency law. Similarly, the British news platforms stood behind and promoted the new laws of terrorism the British government implemented in 2017. Such findings contradict the results of Cziesche's (2007) study on the declining frame of the WoT he conducted on three American newspapers in which it reveals that the practices of the media coverage on the WoT is contested and challenged.

The analyses of sources trigger significant empirical indication that many news platforms prefer to quote from official sources, rather than non-official ones. This inclination towards official sources exemplified by statements from government, presidents, police officers, security officials indicates that news is represented by the powerful sources in society, while the general public is in a position of mere observers (Manning, 2000). Nevertheless, the ratio between the British news platforms and the Egyptian news platforms is 1:3, meaning that *The BBC News* and *The Mail Online* used unofficial sources in their coverage to represent the voice of the people. However, there is still an existing argument which claims that all news platforms are all oriented towards quoting from official sources, the so called, primary definers. This means that those who are in powerful positions in the society set the terms of the debate of any issue or event even if it is a terrorist attack that shocks the general public (Hall et al., 1978).

Analysis of the press news agencies reveals dramatic results that may question the role of the international news agencies to feed up news rooms. It seems that the *BBC News* and the *Mail Online* have resorted only to western press agencies in their coverage of events happening in Egypt without seeking any information from any Arab or eastern press agency like the MENA. By contrast, journalists at *AlAhrām Online* have resorted to both the western and the Egyptian news press agencies in their coverage of the six terrorist attacks which helps in developing diverse views and interpretations. Such results signal an overwhelming "Euro- American dominance of global news flow" (Boyd-Barrett, 1994, p.12). It also raises concerns whether the press agencies are eligible to cover the entire spectrum of news events happening anywhere in the world with the same efficiency, accuracy and balance (Davies, 2008; Esperidião, 2011). Such reliance on only a particular group of agencies may result in a narrow spectrum of knowledge and news about the subject.

Similar to sources, media sometimes give importance to some people and misrepresent others by either marginalizing them or portraying them as less powerful and less advantageous (Shoemaker and Reese, 2014). This is why identifying patterns of ethnic minorities and geographic configurations were important. They have produced significant results when it comes to stereotyping ethnic minorities and covering geographical areas. Indeed, *Christians*, *Sufis* and *Muslims* are on the frontline of all news platforms coverage. Christians are at the forefront in *The BBC News* and *Egypt Independent* coverage as they have been portrayed as a marginalized group with no rights in Egypt. Journalists in these news platforms have reinforced this image by trying to draw a picture that Christians in Egypt are not safe anywhere; neither in their own churches in the urban areas nor in remote areas like the Monastery nearby Minya.

Furthermore, the Sufis in Sinai are stereotyped as being the targets of terrorist attacks in Sinai. No matter how much this presupposition can be true, nonetheless, terrorists groups and militants in Sinai have also attacked police and military checkpoints which led to the killings of scores of police officers in recent years. In addition, Friday prayers do not only include Sufis but can include any Muslim from any sect or group as well. Therefore, by saying that IS attacks Sufis only because of their race and cult, cannot be true because IS simply attacks anyone anywhere.

Likewise Sufis and Christians, Muslims are portrayed synonymous with terrorism related attacks in the British terrorist attacks. The Muslim community in the UK, showed solidarity and unity in the aftermath of the attacks. In a *Mail Online* article that was published after Manchester attacks, Muslims were interviewed as sources and voices of the public. However, they appear as being marginalized and accused of being who they are, because of mainly their religion. Despite showing solidarity and unity with the British people, their framing in the western media exhibits a deeper value to tell a complete different narrative.

In the cycle of representing geographical patterns when covering terrorist attacks, the hypothesis that the two countries have received an equal coverage is not true. The analysis of the geographical pattern of the news coverage proves that the media exploits global media structures, which definitely verifies the British dominance tropes over the Egyptian one, in the vein of the terrorism discourse in the two countries. This result corresponds to Nevalsky's (2015) comparative study between France and Nigeria which concludes that the media coverage of France's terrorist attacks has been characterized by sympathy and empathy. On the other hand, the international media coverage has placed blame on the Nigerians for not stopping the

terrorist attack. In fact, the results in this study reinforce the hypothesis that developed countries receive better international media coverage than underdeveloped ones.

In answer to the second research question, what are the dominant frames employed in the Egyptian and the British news coverage of IS terrorist attacks?, the following findings have been recognized. First, framing the Christians as a persecuted minority in Egypt is a dominant frame in the study. The multiple number of attacks that IS has made on the Christians in Egypt after the Arab Spring can reveal that Christians are a target for IS and for the terrorist groups. However, this frame has been revealed intensively by the use of western sources and their statements like that of the US President Donald Trump who described the Palm Sunday twin bombings attacks as the *merciless slaughter of Christians in Egypt*. He also went further to draw emotional and empathetic appeal for the Christians in Egypt by saying that the attack *tears our hearts and grieves our souls*.

The portrayal of Christians is also depicted in the journalists' own observations of the situation in the Minya attacks. Christians are portrayed as if they are being persecuted and the country, namely the government, is standing aloof and does not know how to protect them. By putting a beguiling yet alarming title like *Egypt Copts: I feel so scared in the BBC News* underpins that Egypt's Coptic Christians are being persecuted and they are calling for the West to save them.

In contrast to the aforementioned portrayal which is mainly extracted from the western news platforms, the Egyptian news platforms have focused on two keywords: unity and solidarity. These two keywords are repeated not only by official sources interviewed but also by the journalists' own observations in their writings. The Egyptian portrayal of Christians demonstrates how the country condemns any sort of terrorism against any people of different race, colour and religion. In addition, it is worthy to note that *AlAhram Online* has been keen to publish all kinds of condemnation of the three horrendous attacks IS committed in Egypt: Palm Sunday twin bombings, Minya attacks and AlRawda Mosque attacks.

Second, framing Muslims as the accusers whilst Islam is linked to terrorism reinforces the narratives existing in academia and current scholarship. Since 9/11, the portrayal of Muslims in the media has surged five times that what it was before, creating a sense of constant threat (Walia, Khan and Islam, 2019). In a post 9/11, Muslims are portrayed as minority groups, perpetuated by negative stereotypes that exhibit fear, hatred and hostility toward Islam from the

western community (Walia, Khan and Islam, 2019). This results in marginalization and exclusion of Muslims from social, political, and civic life. Thus, it is of no surprise that the Muslims in the western context, in the three terrorist attacks in the UK, appear as suspects and a religious group is to blame. Fingers of accusations are pointed to them as they have to show their compassion, their condemnation and to offer their sincere apologies. This is clearly depicted in the voices of the non – official sources, namely the Muslim community in the West who showed their compassion, their solidarity and their cooperation with the victims during the attacks. It is the only ethnic minority group which is covered by the Western media, which indicates that the public is waiting for their apologies and their requests for forgiveness.

Muslims are depicted as a threat towards western democracy, embodied in the parliament, the *spirit of freedom* and the house of democracy, freedom and human rights. This threat can be seen in connection to the parochialism and fundamentalism associated with the Islamic faith. This misconception between what Islam calls for and democracy creates a large gap between “us vs. “them”. The only time Muslims are portrayed in a positive way is when the media coverage has been about the first female veiled police officer who died protecting the church in the Palm Sunday twin bombings. Nevertheless, most of the time Muslims, in the three terrorist attacks in the UK are exclusively associated with negative connotations. Connotative words like *suicide bombers*, *Islamic terrorist attacks*, *Islamist fanatics*, *jihad*, *jihadists* are found excessively in the articles analysed.

Third, framing the security officers in the UK and Egypt differently is realized through drawing diverse images. Results reveal that there is an intended framing of the security officers and military forces in Egypt as an authority which does nothing for their ethnic minority groups. Even when Egypt launched air strikes in terrorist attacks on Libya targets after the Minya Bus attacks, this is scarcely covered in the overall coverage of the news; it is only mentioned once in *Egypt Independent*. This portrayal is reinforced when Egypt declared the state of emergency after Palm Sunday twin bombings. The declaration of the state of emergency has been covered by the British media in such a way that shows the tyranny of Egypt’s president Abdel Fattah Al Sisi. Such enforcement of the law allows the police officers, as alleged by the news coverage, to exercise illegal acts, imprison victims and practice unlawful acts against human rights.

Unlike the above portrayal of the Egyptian security officers, the security officers in the UK are perceived as *exceptional and brave* by the media coverage. MP Tobia Ellwood who died trying to save the stabbed police officer during the Westminster attack is portrayed as a hero .The

police and the security officers are perceived as exceptional champions who risk their lives to make the British people feel safe. Furthermore, the portrayal of the police is fostered by the idea that they implement the law of terrorism despite how severe it might seem. Even though the UK threat level was raised to *severe*, meaning that there are many precautions, provisions and arrests the British police can do without referring back to traditional law, this was accepted by the western media. It seems that the western media accepts the *severe* measures that might be taken by the police in the UK to protect its citizens however, it cannot apply the same measures to the Egyptian security officers when an emergency law is declared.

In answer to the third research question, how different or /and similar was the reporting of the 2017 IS Attacks in Egypt from its counterpart in the UK, the following findings have been revealed. The overall number of articles published by *AlAhrām Online* and by *Egypt Independent* covering the British terrorist attacks are much less in comparison to the coverage of the British press of Egypt's terrorist attacks. Since the digital revolution caused tremendous impact on the print media in recent years, the workforce of journalists in the newsroom fell by 60% worldwide, and in Egypt, the printed press stands at 350 000 copies only in comparison to 3.5 million in 2010, according to the Central Agency for Public Mobilisation and Statistics. The crisis facing journalism is huge which leads to the closure of several foreign bureaux of news organisations, including *Al Ahrām* (Diab, 2019). The failure to cover the news and to represent the full diversity of thought, class and religion appears to be the normal result of the shrinking profession which might lead to its death in a few decades, as suggested by Diaa Rashwan, the chairmanship of the Press Syndicate (Rashwan as cited in Diab, 2019).

Another main finding of the study reveals that all news platforms have condemned all the terrorist attacks and have emphasized the illegitimacy of IS as a terrorist group. However the articles differ in their strength of condemnation. For instance, *AlAhrām Online* dedicates much space to condemn the British attacks rather than covering actually the event. *The BBC News* and *The Mail Online* also condemn powerfully the terrorist attacks in Egypt feeling personally affected by the global horror this organisation is doing on an international scale. Hence, even though the four news organisations belong politically to different ideologies and cultural heritage, it seems that the universal human law prevails and does have an influence in the media coverage.

In the context of the terrorists' use of the media, *The BBC News* and the *Mail Online* have fallen into the trap of topicalizing and foregrounding IS group in their articles. Contrary to what has been agreed by media scholars, that giving the group more prominence in the media makes them look like a legitimate organisation, the analysis shows that the former news platforms may have helped fostering IS propaganda. As a matter of fact, some of the perpetrators of the IS attacks in the UK in 2017 were IS sympathizers and online recruiters. The importance of the media in subsiding violent extremist propaganda by not projecting their statements and always backgrounding their statuses appears to be a sceptical one. However, the topic remains pertinent as one of the pivotal topics in research, whenever a terrorist attack happens and a media coverage gallops to cover it.

Unlike the Egyptian counterpart, *The BBC News* has provided coherent information about the terrorism act law implemented in the UK to arrest suspects planning any further attack. The news organisation has dedicated more than two pages in two articles only to list the Acts of Terrorism, as set by the government in the UK. In addition, it has provided all the necessary background information about all the terrorist attacks and has traced the history of the terrorist attacks that happened in the UK and Europe before 2017. *The BBC News* and the *Daily Mail*, while covering Egypt's terrorist attacks have provided a well –informed background on Egypt's Copts and Sufis to inform the readers of their historical and cultural background. Such insights and background knowledge given to any reader, with little or no background, about the topics help tremendously in drawing a full picture of what is happening on the scene.

The dominant topics vary dramatically from one paper to another as mentioned above. There is a clear ideology adopted by the British news platforms to show always the human side of the story, thus drawing not only international appeal but local appeal as well. This strategy employed by the news organisations play on public emotions, feelings and empathy. By representing and resonating the voices of the victims, the public can get more attached and more engaged. The Egyptian coverage of the attacks can be described as solid with no emotions. The use of linguistic tools to draw emotional and passionate appeal from the public is very little in comparison to the British counterparts. Although the terrorist attacks selected in this study are horrific in the number of victims identified especially for Egypt's part: 309 in Sinai, 42 on Palm Sunday attacks and 22 in the Minya attacks, the news coverage of the Egyptian news platforms has failed to acknowledge a single human news story for at least one victim. In addition, the voice of condemnation on the international and the domestic levels appears to be just mere statements issued by officials.

The western press appears to be involved more in the coverage of terrorist attacks, especially for the ones which happened on its own soil. This involvement with the public is depicted by *The BBC News* usage of the “call to action”. The Call to Action in *the BBC News* makes the readers engaged in the scene and the news presented to them. The BBC News has engaged its readers in the news by saying that anyone who has information about the terrorists or the attacks is asked to call the hotline number or to send them an email. Such engagement and involvement shows that this news organisation has a wide network and all its media tools are interrelated and connecting to each other in situations, when the country needs them the most. This call to “reader’s engagements” is part of the changing role in journalism which has been enforced by the digital technologies to adapt and change to the new role of convergent participant role of journalism.

Media coverage of the Islamic State is affected by multiple factors including media ownership, political stances of the countries, religious orientation, economic incentives and many more. However, the four news platforms showed the same tone of condemnation towards the terrorist attacks and the victims.

The explored frames in this research are not new in news media coverage; however, they are evolving and developing to include not only Muslims vs. terrorists but also police and security officers, emergency laws, western democracy and the portrayal of ethnic minorities and the geographical areas. In addition, the lack of non-official sources might take the research to another step of bias towards official statements, or the elite of the society. In other words, the dominant powers in the society are still the ones who control the media.

It is quite valid to assume that the media coverage of IS attacks in Egypt and the UK and the condemnation of the attacks might bring nations to come altogether to fight the war on terror. However, the news coverage seems to reinforce the images and the frames already portrayed in the readers’ minds. In addition, it supports the belief that instant counter terrorism, on the other hand, is seldom covered in the same way as the terrorist’s atrocious acts are covered.

Furthermore, cross-cultural studies in media and linguistics are still in need to be recognized more in media organisations. Studies across countries between the east and the west between two media organisations in the same country have proven to be in dire need to proceed in developing all media organisations. This study also puts further requests to narrow the gap between academia and news organisations and to cross bridges in order to explore the full potential of research and how it can contribute to improving the media environment.

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A DISCUSSION ON THE ETHICAL PROBLEMS OF IMPRISONMENT

Laura Pistarini Teixeira Nunes

ABSTRACT

In this essay, I aim to answer nearly two out of three of Hart's (1968) questions: (1) whether is the creation and maintenance of a system of punishment such as imprisonment justified; and, if so, (2) who may properly be punished. Then, I shall argue that a moral justification for imprisonment, as a policy, is particularly problematic within notably unfair societies. To defend my positions, I will debate the genealogy of morals, the moral problems of state kidnapping and the structure of the prison system.

Introduction: A problematization of legal punishment and discipline

I will consider *legal* punishment as “the imposition of something that is intended to be both burdensome and reprobative, on a supposed offender for a supposed crime”¹ under the authorization of the state. I aim to address, specifically, *imprisonment* as a method of legal punishment. Many theories try to assess what is its objective; whether imprisoning is morally wrong; and if not, what would be the morally acceptable ways to undertake it. Those theories will not be under the spotlight of this essay.

It seems appropriate to discuss the *genealogy* of morals, punishment and punitive institutions (e.g. prisons, which I will be focusing on; but also schools and asylums) for which Foucault provides extensive work, to tackle these questions. According to Bruzzone (2019), Foucault's aim with the genealogist approach is explaining, by disconnecting proposal from adaptation, “how the prison-form can only be derived with a moralized notion of religious repentance”². According to Foucault, punishment is a mechanism used by dominant classes to render masses disciplined and useful, to maintain and regenerate their power:

¹ Duff, Antony, and Zachary Hoskins. “Legal Punishment.” *Stanford Encyclopedia of Philosophy*, Stanford University, 18 July 2017, plato.stanford.edu/entries/legal-punishment.

² Bruzzone, Mario. “‘Each Punishment Should Be a Fable’: Punitive Analytics, The Punitive-City Diagram, and Punishment as Technology of Power in Foucault's Works of the 1970s and 1980s.”, p.72.

“The privileged would seize the administrative and police apparatus of the late eighteenth century to crack down on popular **illegalisms**³. The result would be a turn to the penitentiary and the prison-form—which was not so much a model of confinement for violations of a statute, so much as imprisonment for irregular behavior.”⁴

By morally energizing previously tolerated, even encouraged, acts, and therefore turning them in crimes, the upper classes introduced the ideas of fault, guilt and penance. In fact, the idea of the criminal as a social enemy, as a danger, arose between the 18th and 19th centuries, when popular illegalisms were no longer beneficial to the commercial class. This new kind of management of illegalisms was only made possible by the reconfiguration of jurisprudence and punishment, beginning in the 12th century and then again during the late medieval period, as European monarchies accumulated and centralized the means of force: in fact, institutional punishment arose here. Those elements possibilitated and assured the conditions of exploitation that some groups exert over others.

The epistemic shift that possibilitated the systemic use of institutional punishment entails that offenses created concrete victims – those who had been wronged – and an abstract victim – the sovereign, who was damaged by the mere fact because that a crime was committed under his authority. Therefore,

“If the sovereign could be injured by violations of “his” order, then “his” response would necessitate the full right of “his” power: the sovereign righteousness to punish, the sovereign privilege to do violence, and the sovereign interest in its control over the social multiplicity. [...] Foucault emphasizes across works that the sovereign responds to violations of “his” authority by pitting “his” power against the individual’s and demonstrating the excess of violence that the sovereign wields over the individual. What Foucault terms the “penal ensemble” – which is to say, penalty – originates in this ‘practice of justice organized by reference to the exercise of sovereign political power.’”⁵

In this sense, punitive institutions operated to produce unfairness with the excuse of producing morality, in a veiled exercise of power and violence of the sovereign and upper classes. Indeed,

³ Foucault would graft a genealogy of morals on a political economy employing what he called “illégalismes.” The idea of illegalisms is that the law itself is a struggle, a negotiation, agonistic combat, a competition over the very question of defining the line of illegality—the line that divides deviations, disorderliness, rule-breaking, rule-interpretation, from illegality and the sanction. (Harcourt, 2015).

⁴ Harcourt E., Bernard. “The ’73 Graft: Punishment, Political Economy, and the Genealogy of Morals”, Columbia Public Law Research Paper No. 14-485 (2015).

⁵ Bruzzone, Mario. “‘Each Punishment Should Be a Fable’: Punitive Analytics, The Punitive-City Diagram, and Punishment as Technology of Power in Foucault’s Works of the 1970s and 1980s.”, p.69.

the essential function of *empirical social and political power* in contemporary societies is a mechanism of exclusion that produces frontiers, dividing society in two spaces and establishing which kinds of individuals suit each. The internal space is social and dignified, related to reason and normality; and the external one, to which is assigned individuals that do not enter in the above-mentioned categories.⁶

If Foucault's arguments are right, the reason why punishing is morally problematic is because its *real outcome is to maintain power through* exclusion, redemption, stigmatization and imprisonment as the "major forms of punitive tactics", which entails unfairness and inequality. In this context, the different theories that try to answer questions related to imprisonment (consequentialist, retributivist, expressivist) are considered as *rhetorical instruments* to those in power.

"The implementation of strategies of social control that armed the institutions in defense of society happened in a way that reassembled, very intensely, the repressive-violent mechanisms connected to the notion of sovereignty and those positive-disciplinary [...]. Prison, for its part, suggests the maximum junction of these two aspects."⁷

Therefore, I do not consider punishment wrong a priori. However, punitive institutions in the way we see today are necessarily correlated with dehumanization and biopower, since the violence exerted is imposed necessarily over the transgressor's body and conscience. I understand that there is a need to reflect on the mechanism and processes of control and submission of bodies, which will be tackled in the next point.

Biopower and restriction of human agency within the structure of the prison system

In the section above, I explain why I do not believe that punishment is necessarily morally wrong, but the evolution and use of punishment as a means to segregate individuals under structures of oppression, is indeed. That is why punishment needs to be handled carefully and under perpetual problematization. I tend to feel in a very similar way about imprisonment, and here I will explain why.

⁶ "Foucault contre lui-même". Directed by François Caillat, 2014.

⁷ Lima Ferreira, Mariana. "Biopoder Em Foucault: Aspectos Empíricos-crimionológicos da Gestão da Vida e da Morte das Pessoas", p.68 (my translation).

Here, imprisonment is considered a total institution that “involves the physical removal of an individual from the community into a prison, where the inmate is required to lead his or her life under the control and supervision of others.”⁸ Since the distinctive characteristic of imprisonment, the intentional deprivation of human agency, is executed in a particular way, through the physical and communicative social exclusions, sending the message that the offender is not suited to live among us, it should be treated as a severe method of legal punishment, therefore requiring special justification. The question we will try to answer in this section is how the loss of agency, in different ways, brings about universal moral problems of the imprisonment of persons.

The most obvious way in which imprisonment affects human agency is the lack of *freedom of movement*, which makes various types of human activity inaccessible in ways that other kinds of sanctions, such as fines or mandatory community service, do not. Even if the loss of a certain resource, like a sum of money, or a small amount of time, can debilitate one’s agency, the complete loss of access to freedom of movement constitutes an impairment on human agency of a different kind. In the financial realm, being imprisoned could be comparable with the prohibition of using money, rather than a deprivation of a specific sum. Therefore, the effects of imprisonment in persons differ in *kind*, not in degree, from other kinds of punishments (Hughes, 2018). There are, however, various instances that derivate from this restriction, which may be as well morally problematic.

An example of a consequence of the restriction of freedom of movement that might be morally problematic is that it impedes effective *freedom of association* and, consequently, the ability to carry out projects that require other people’s help; to attend association meetings, or simply to meet with someone who cannot travel. Additionally, inmates are not only deprived of their right to meet in person with someone of their choosing when they wish to but most of the time they are *compelled* to undertake their lives with the presence of other inmates.⁹ This, allied with the fact that panopticon structure is coercive in itself – prisoners are not only watched constantly by their fellow inmates but also by authorities – makes little room for prisoners to be recognized as autonomous moral agents, which is morally problematic (Bulow, 2014), as the punitive apparatus strikes violently the sphere of personal liberties and the psychological safety of inmates, forcing damage in community and familiar bonds through forced segregation and

⁸ Bülow William. “Ethics of Imprisonment: Essays in Criminal Justice Ethics.”, p.22.

⁹ I will not furtherly deepen into this argument since it might mislead the topic to unacceptable conditions of imprisonment.

imposition of discipline. One may argue that many burdens of imprisonment come from the very fact that they are no longer suitable to live within a community, but I believe there are further moral problematizations to be made on this point.

Being imprisoned is the *most radical and desperate experience of non-belonging to the world* that one may have- Plus, prisoners are imposed a profound rupture from their roles previously exercised (at home, at work, or in a group of friends). In fact, the dynamics of the kidnapping institution of the prison are disposed of as physical and social barriers and exclusions by seizing a subject's body in diversified intensities:

“in our societies, the systems of punishment are to be situated in a certain ‘political economy’ of the body: even if they do not make use of violent or bloody punishment, even when they use ‘lenient’ methods involving confinement or correction, it is always the body that is at issue – the body and its forces, their utility and their docility, their distribution and their submission.”¹⁰

Indeed, Goffman (1991) emphasizes that total institutions breaks barriers of basic social arrangements in modern society, according to which “the individual tends to sleep, play and work in different places, with different co-participants, under different authorities, and without an overall rational plan”¹¹. The prison structure itself violates social boundaries “by which an individual holds objects of self-feeling, such as his body, immediate actions, and thoughts and feelings clear of contact with and free from the gaze of others.”¹² Within total institutions, all these different fields of life are conducted in the same restricted space under the same authority.

In fact, one fundamental mechanism of biopower is the *normalizer*, which includes and excludes people by putting them in categories. By doing that, it stipulates who must live and who must die: who is in the exterior of the boundaries must have its subjectivity “adjusted”, thus, metaphorically dying. “The creation and perfection of subjects is an ongoing process in disciplinarity’s “perfect continuity of the punitive and the penal.”¹³ In order to be a “good inmate”, the prisoner has to accept to be modeled by the administrative machine, which represents the death of the self through the normalization of behavior by means of the discipline mechanism. However, the good inmate, that knows only how to behave and to reproduce the

¹⁰ Foucault, Michel. *Discipline and Punish: the Birth of the Prison*, p.25.

¹¹ Goffman, Ervin. (1991 [1961]). *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*, p.17.

¹² Bülow William. “Ethics of Imprisonment: Essays in Criminal Justice Ethics.”, pp.22–23.

¹³ Bruzzone, Mario. “‘Each Punishment Should Be a Fable’: Punitive Analytics, The Punitive-City Diagram, and Punishment as Technology of Power in Foucault’s Works of the 1970s and 1980s.”, p.78.

routine of the prison, is useless outside its walls, where he would have to fight to live, which is something that he unlearned. Instead of rehabilitating, prison life destroys skills prisoners need in order to confront reality outside, such as living in a fast-paced environment with a relative lack of structure, and with an abundance of choices.

“The incarcerated individual is violated in his subjectivity to attend, therefore as *nobody*, his new *me*: the *imprisoned me*”. [...] This individualization is coercive and involves the disruption of all and any social relation that is not controlled by power or ordered accordingly by the prison’s hierarchy.”¹⁴

In fact, many studies show how the rigid structure of prison and its repetitive and restrictive routines may cause psychological harm to prisoners, promoting a sense of anger, frustration and a general sense of injustice towards society. These effects are long-termed, enduring after the conviction process, and notably problematic “because they undermine the kind of civil disposition that is desirable in civilized liberal democratic societies”¹⁵.

These arguments may be relevant both for consequentialists, that approve rehabilitation as a justifiable aim of punishing, and deterrence theorists, in the sense that the obstacles associated with serving a prison sentence may decrease the perceived utility of not offending. However, as for rehabilitation, I believe that, as stated before, the societal power relations in place must be taken into consideration, and the totalizing character of the impairment of subjectivity should be problematized. I will come back to this argument when discussing the Kantian argument against kidnapping. As for deterrence, there may be empirical responses that show how this argument is flawed, especially in particularly non-ideal situations.

Indeed, a sovereign punishment like imprisonment offers a narrative, a plot about reasons for the penalty, or even a justification, linking the present to the past. In this sense, the reconstitution of sovereign authority is of causal order, constituting an offense-response story that not only depicts behaviors but also creates records, that within disciplinary institutions invoke diagnoses that consequently imply treatments as the basis for correcting those “mis”behaviors (Bruzzone, 2019). Thus, the figure of the offender is not only socially docilized by the structure of the institution itself, but also medicalized. To this medical instance, it is added a moral one. As already said, physical and social barriers are created to foster the

¹⁴ Lima Ferreira, Mariana. “Biopoder Em Foucault: Aspectos Empíricos-crimionológicos da Gestão da Vida e da Morte das Pessoas”, pp.70–71 (my translation).

¹⁵ Bülow William. “Ethics of Imprisonment: Essays in Criminal Justice Ethics.”, p.28.

necessity of distancing the inmate from society, due to its sickness or nonconformity. Furthermore, barriers are justified by the assumed perversity of the perpetrator, due to which the crime was committed. In this case, the frontiers resemble the presumed moral distance of the criminal and the “good citizen” and the only possibility to tear them down is through redemption. In its turn, the prisoner’s regret can only be shown by the acceptance of his penitence, and, therefore, by conformity.

Freedom of assembly and the killing of the felon’s *subjectivity* were two consequences of the denial of freedom of movement can enrich the prison system with a morally problematic feature. Yet, the loss of freedom of movement itself can be morally problematic, since it constitutes an all-purpose means of human agency.¹⁶ Since we are considering imprisonment as state-kidnapping, we may as well reflect on why is kidnapping generally wrong, using a Kantian account.

People can rationally defend the universal acceptance of ethical norms only when doing it consists of the engagements reason itself requires. For example, if I advocate for the permissibility of killing individuals – the most extreme form of destroying someone’s agency to satisfy my own interests, I have to accept the fact that other people may also kill me to attain benefits for themselves. This is something I rationally cannot do if I regard the continuation of my existence is my fundamental goal.

Similarly, one may assert that people are rationally and morally drawn to preserve their freedom of movement. Apart from the fact that locomotion constitutes a primary means of human agency, and is required for any project that implicates the physical alteration of the world by one’s endeavors or that demands personal observation; one must also consider that we are all morally required to prepare ourselves to accomplish future, and sometimes unclear, moral requirements. Said differently, social freedom may be necessary to fulfill:

“universal moral duties (such as the duty to benefit people in need and the duty to preserve oneself) as well the obligations people have acquired (such as promissory obligations and

¹⁶ “All-purpose means of human agency are means without which major categories of human activity are foreclosed. Among the other all-purpose means of human agency are the ability to possess and to use physical objects, the ability to solicit the help of others, and the ability to draw on our own skills and talents. Though a person who has lost one of these all-purpose means of agency can still live and act, her agency is greatly impaired.” (Hughes, 2017, p.5)

the obligations parents have to care for their children). [...] It is often impossible to predict what one will have to do to be a good parent, a good friend, or a good citizen.¹⁷

In order to be ready to respond these unpredictable and subsequent moral duties, one needs not only flexibility; but also a variety of resources, such as social skills; the possibility to own and generate property; and because an immense range of tasks and projects demand locomotion, freedom of movement. Therefore, being flawed rational agents, we would all be “rationally committed to remaining effective agents and being able to carry out our moral duties and obligations, even after having done a wrong”¹⁸. That requires us not to let go of our agency, and, more specifically, our freedom of movement since, in the future, we might have duties that can only be satisfied by moving freely. Precisely, our rationality and morality block us from giving up one of the all-purpose means of action when there is no coercive reason to do it. For instance, I could rationally compromise with the fact that I cannot go to a certain place, however, I cannot withdraw from my absolute freedom of movement, which would make entire categories of human action impossible for me.

This argument explains the moral wrongness of most instances of kidnapping and would apply completely for private actors, who are not morally justified to kidnap. One could debatably argue that state kidnapping could be morally justified in all instances since it affords a due process in which all citizens are treated the same and afforded proportional sentences. However, even before descending the level of ideality of this situation, I believe the same mechanism applies for state actors: for the same reason it is wrong for a private actor to kidnap to satisfy his desire, it is wrong for a state actor to kidnap to satisfy the desires of the collectivity.

The problem with imposing discipline is that it diminishes personal agency and the ability to form one's identity, due to the absolute need to conform. There is the necessity to develop mechanisms of legal punishment that do not diminish the scope of human nature in its capabilities of creativity and its fundamental human characteristics such as dignity and (at least a certain degree of) freedom.

¹⁷ Hughes, Robert C. “Imprisonment and the Right to Freedom of Movement.” pp.7–8.

¹⁸ Idem, p.12.

Who should go to prison?

However, sometimes it may be morally permissible for a legitimate government to restrict someone's agency: the question is *when*. The only acceptable case for imprisonment I will consider is *collective self-defense*. Indeed, the sole circumstance in which I could morally endorse my own imprisonment is if I posed an objective danger to others. All other cases, in which the imprisonment of certain individuals satisfy some kind of public preference, are not morally acceptable¹⁹. Hence, the Kantian argument against kidnapping which suggests that the simple evidence that someone has committed a moral or legal infraction in the past does not permissibly justify his confinement.

So, I have argued that the only allowable moral justification of imprisonment is the objective existence of hope to protect or encourage people's present or future agency or their possession of all-purpose means. This explanation, in my view, also offers an adequate reply to retributivists theorists: since, individually, we could not rationally consent to ethical norms that allowed others – state actors included – to subvert (or to threaten to do it) our agency as a backward-looking remedy for a past offense, we cannot contemplate ethical principles regarding restriction of agency that admit retribution as a tolerable justification for imprisonment.

Following the line of the moral problems of restricting human agency, even if I also recognize private individuals carrying out actions that undermine directly other's agency as morally problematic, I do not in the same way a retributivist might view it. Here, incarceration is, indeed, treated "as a suitable penal response to those serious offenses that defeat or diminish in significant ways the capabilities of victims to live decent lives of their own choosing"²⁰, but not because, if imprisoned, the offender would suffer from the loss of the same capabilities. Rather, it seems justified in its defensive force and incapacitive effect of individuals that are highly likely to be recidivous: when used properly and proportionally, would work to prevent wrongful, particularly violent, acts. In fact, the use or threat of imprisonment must be proportionate to the seriousness of the danger the infractions in question pose to collective human agency, for example, it could be suited for crimes such as homicide; rape; kidnapping and certain forms of terrorism. At the same time, however, there is an extensive scope of criminal prohibitions that a legitimate government is not entitled to sanction through

¹⁹ An advanced reflection on the moral problems of the social recognition of danger is going to be presented further on.

²⁰ Bülow William. "Ethics of Imprisonment: Essays in Criminal Justice Ethics.", p.24.

imprisonment, such as disorderly conduct; minor offenses; or even more serious ones such as insider trading or theft.

This explanation is not, although it seems to be, related to the consequentialist view according to which legal punishment is only justified if it generates good effects: primarily, the prevention of crime. The debatable crime-reductive effect imprisonment presumably exerts over people is empirical, while the point I am trying to make is that legal punishment policies should be explicitly focused on the protection of individuals and the pacification of social life, not only combating crime for its own sake, i.e. deterrence. I believe that social problems must be managed seriously in order for criminality to decrease, and the fact that harsher punishments such as imprisonment produce disincentives to infractions is debatable in a broad range of circumstances.

Additionally, a common consideration under this theory is the principle of less eligibility, based on the assumption that living conditions offered by prisons must be intentionally inferior to the lowest category of free workers to assure the presumed dissuasive effects of the sanction.²¹ However, it appears that there is a set of unintended harms imposed by intended legal punishment: resulting from the imprisonment experience, and therefore from consecutive formal restrictions on ex-offenders (or a lack of reintegration arrangements), ex-inmates often lack job and housing opportunities. And I think that those collateral effects also must be taken into consideration when deciding to confine someone, even if they are indirectly associated with the sanction imposed.

There is also the concern, stressed by certain academics, that imprisonment may make prisoners worse, especially those carrying out short-term sentences, that underline how condemnation, in fact, leads to loss of employment, housing, and contact with family members, that are perceived as factors that contribute to the increasing, rather than the fall of crime. To this, the social stigmatization connected to being an ex-prisoner also deteriorates one's hopes and prospects for life (Tonry, 2011). Under this light, a further exposition of those individuals to the "world of crime" that exists inside prisons may increase their vulnerabilities. Moral education theorists, for example, talk about the *process of prisonization* to describe a process "by which inmates take on, to a greater or lesser extent, the folkways, mores, customs, and general culture of the penitentiary" (Lippke, 2007) which thwart the moral message their punishment is presumed to

²¹ Lima Ferreira, Mariana. "Biopoder Em Foucault: Aspectos Empíricos-crimionológicos da Gestão da Vida e da Morte das Pessoas", p.66. (my translation).

communicate. Therefore, I believe it is very reasonable to think that this complex punishment and discipline apparatus actually contributes to produce and reproduce delinquency, in a political tactic of submission.

“Once normalized the subordinate classes, moralized the institutions, purged dangerous individuals, taught working rules, concealed the oppressor’s illegalities; the system, in its functioning, blocks the risk of political generation of transgressions and impedes the questioning of the established order.”²²

Obviously, the extent to which prisons make inmates worse depends on the types of prison conditions²³ that are under examination: I do not find the universal moral evaluation of prisons such a responsible intellectual exercise, once we could comprehend in the same categories, for example, the Norwegian and the Brazilian prison systems. In such abysmally different circumstances, inmates would have completely divergent access regarding respectful treatment (solitary or overcrowded confinement); education programs; working opportunities, etc.

Therefore, I believe that the most morally acceptable and highly applicable – in a diverse range of social, political and economic circumstances – way to administer infractions is restorative justice. It refers to a claim mostly done by abolitionists that, not accepting any moral justification for legal punishment in any form, stresses the necessity to focus not on the wrongdoing itself, but on the harm that has been done and what would be the best way to repair it, rather than imposing violence on the transgressor.

By “restoration”, is meant not only a material one, for any damages done over property, but it refers mostly to what can be done to reconstruct the wounded relationship between the offender and the victim, in order to bring about a genuine reconciliation²⁴. It seems intuitive, in fact, that this restorative process is not competent to a system of criminal punishment as we know it, but it could, for example, entail the construction of a new set of local institutions by states in order

²² Idem.

²³ I have not argued necessarily for the abolition of prisons, and have defended indeed this form of punishment for specific criminal offenses. Therefore, I believe that a further, informed moral discussion on the conditions in which imprisonment may be undertaken for it to be morally acceptable is also necessary. There may be ethical problems also in the way imprisonment is offered even when its structure is morally acceptable.

²⁴ It must be said that this proposal is not free of moral problematizations. Indeed, according to abolitionists, a restorative process that is appropriate must seek adequate recognition, by the offender and by others, of the wrong done. The offender, therefore, must be repentant of the harm done; and must pursue a suitable apologetic reparation towards the offended. However, as explained in the sections above, these mechanisms and aims of punishment as a species of secular penance are also found in traditional criminal philosophy, and since the question of redemption involves concealed exercises of power and violence, they must be handled carefully.

to secure a ritualized reconciliation between its citizens. One suggestion, for example, is community-based sanction.²⁵

Since now, we have been discussing imprisonment from the viewpoint of a reformer. Neither punishment nor imprisonment were considered wrong in principle. Rather, they were analyzed as containing particularly morally problematic features, that were discussed. That is also because I admit that from a philosophical perspective, abolitionism is much harder to support. However, I also do not feel entirely satisfied with the claims and conclusions I have reached debating the problematic features of imprisonment. I believe that the prison system, when reformed, may be suitable within very specific contexts to meet acceptable moral standards.

Conclusion: A debate on fairness

While agreeing in several points on moderate or less progressive arguments on the imprisonment of persons and on acceptable prison conditions (according to which imprisonment is morally acceptable and a mere reform of the system would be enough); I still found irresponsible to agree with the most part them in a universal way. Since this debate would not make a difference in most parts of the world, in deeply non-ideal situations, I did not find intuitive to defend them with no constraints:

“Within unequal societies, to apply criminal penalties does not mean to quantify punishments, but to administer ideological and emotional conflicts in conformity with democratic or authoritarian parameters of social control. To absolve or condemn criminal offenders does not constitute neutral decisions, conducted by the dogma as a criterion of rationality, but rather the exercise of power selectively oriented by penal ideology, almost always activated by stereotypes, prejudices and other personal idiosyncrasies.”²⁶

Therefore, the main moral problem of punitive institutions such as prisons in countries that count with exceptional historical; social; economic; ethnic structures of oppression, is that there are preselected social groups that are particularly stigmatizable subjects of legal sanctions, which is unfair. We have seen, when talking about punishment and illegalisms, that the superior classes historically decided which acts should be considered as crimes and which should not.

²⁵ Again, community-based sanctions are not free from ethical problems simply because they are less severe than imprisonment, but they require their own ethical discussion and analysis.

²⁶ Lima Ferreira, Mariana. “Biopoder Em Foucault: Aspectos Empíricos-crimionológicos da Gestão da Vida e da Morte das Pessoas”, pp.55–56 (my translation).

However, in certain countries, criminal perceptions were also attributed to inferior classes while immunizing economic and political élites. There was a historical conflict likewise in deciding *who* should be considered a criminal. Baratta (2011) addresses it as *criminalizing selectivity*, according to which

“a person that derives from those social situations must be aware of the fact that his behavior entails the highest probability to be defined as deviant or criminal, by others, and in particular by the holders of social and institutional control, than another person that behaves in the same way, but that belong to another social class.”²⁷

Additionally, there are certain crimes that the vast majority of people would not commit under any but special conditions (Tonry, 2008): did this person have any acceptable alternatives when the infraction was committed? This can make can us think about how punitive institutions and criminal law work together with those in power in order to criminalize certain social vulnerabilities that restrict people’s acting freely, such as a certain ethnic belonging; poverty; chemical dependency. Indeed, in many countries criminology and punitive institutions were handled was a reaction to insurgencies. For example, in Brazil, the Haitian Revolution resulted in the creation of the Military Police, due to enslaver’s fears that such a revolution could happen in Brazil as well. Until today, this is considered one of the most arbitrary and untrustworthy institution, especially by the black and peripheral population. Other responses included, for example, harsh sentences to low-security related crimes (e.g. war on drugs), which has increasingly contributed to mass incarceration in the U.S. since the 1980s.

In many countries with such a historical background, we can see what is called “*criminological apartheid*”, in which the penal system works, due to an established political project, with an extermination policy for certain categories of the population, the ones belonging to the “exterior” realm. In these cases, the lack of distributive equality²⁸ comes from a lack of basic equality, in which individuals differ in a moral standing: since there is no such thing as equal treatment, some lives are more “disposable” than others are. Here, as already stated before, punitive institutions actually decide, arbitrarily, who must live and who must die.

Therefore, I believe that the prison system in such circumstances is particularly morally wrong in the same way slavery or apartheid and racial segregation were. Prison is an institution

²⁷ Baratta, Alessandro. *Criminologia crítica e crítica do direito penal. Introdução à sociologia do direito penal*, pp.111–112 (my translation).

²⁸ Relating to how the total amount of resources in a society is divided.

designed to inflict burdens on criminals. However, who is a criminal has already been settled. In this sense, I do not hold responsible to morally defend such punitive apparatus when the benefits and burdens of social cooperation are not properly allocated in the first place and security policies are designed to play with social-economic and moral contradictions, rather than to actively solve them. It seems quite intuitive that such states are not guaranteeing proper functions to their citizens.

However, I do not wish to analyze specific cases. Race, before, was used as an example of a structural social oppression that, in the US, for example, results in the disproportional incarceration of black men: despite being only 37% of the overall population, they make up about 67% of prisoners²⁹. We could make a similar argument for what concerns the impairment of *freedom of assembly* caused by imprisonment. This feature is particularly important to ensure political, electoral and civil society participation in national governments. For that reason, I believe that in hybrid and authoritarian regimes it is even deeperly morally problematic to incarcerate.

Let us think of a democratic political system as one having an impartial administration; participatory engagement; a representative government; wide respect for fundamental rights and checks on government, as state the conceptual framework of IDEA³⁰. This research, that covered 158 countries from 1975 to 2018, found that 97 were democracies (61%), while the remaining 61 were hybrid or authoritarian regimes (38%). It seems intuitive that a country that structurally does not possess (entirely or partially) certain features of liberal democracies would be less morally justified to imprison its citizens. Those attributes include access to justice; free political parties; civil liberties; judicial independence; direct and local enforcement. Governments could easily use punitive institutions to detain political opposers, repress social movements, deny freedom of the press, diminish electoral participation of specific branches of society (which is also a morally problematic feature of imprisonment in some liberal democracies), etc. This argument is a very specific remark within the broad statement of fairness, which, admittedly, is very broad. Yet, it would apply to 38% of countries analyzed by the report and a bit less than half of the world's total population.

What I wish to state is that the moral acceptability of imprisonment could work in a spectrum that goes from “most fair” to “most unfair” societies, by taking into consideration how certain

²⁹ Federal Bureau of Prisons, 2015.

³⁰ The Global State of Democracy, 2019.

groups (ethnicities; age; sexual orientation; gender identity; economic class) are stigmatized by the criminal system, the police, and society in general. This process contributes to a vicious circle of vulnerability whose assignment is to generate unfairness.³¹ In the case of hybrid and authoritarian regimes, this stigmatization could be directed to political opposers, social movements, students, journalists and parties. Thus, my argument is intensely based on justice (as fairness) and equality. Therefore, I do believe that in most circumstances, the case for restorative justice is quite appealing, since it would help not only offenders to rebuild bonds and relationships that have been broken, but it would stimulate entire branches of society to reconcile and make up for historical injustices and abusive power relations.

Still, I do not believe that imprisonment is in principle an immoral practice. Indeed, I tend to accept that particularly violent offenses may be punished by imprisonment with the justification of collective self-defense. However, relating to the vast majority of offenses, I believe that imprisonment should not be regarded as the standard form of punishment. At the same time, I also tend to understand that legal punishment may be only justified under very specific social circumstances that may not obtain in most realities. In this sense, we may be morally obliged to begin discussing about and acting more seriously towards the superation of the prison system.

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³¹ It would be interesting to apply this argument to minority groups in reasonably fair societies, such as immigrant communities and citizens that belong to ethnic minorities. However, I believe the mechanism of stigmatization would not perform in the same systemic way I explained before.

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