

Singapore Symposium in Legal Theory Seminar

Second Chances in Criminal Law: A Robust Defense

Dr. Leora Dahan Katz, Law Faculty of the Hebrew University of Jerusalem

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Federal Conference Room, NUS Law (Bukit Timah Campus)

ABSTRACT

Practices of punishment both in the private and public sphere exhibit excesses that have been the subject of much concern. Recent arguments that point to punitive excesses and call for restraint have focused on defects that undermine the grounds of punishing, including failures of proportionality and epistemic worries about punishment's appropriateness, as well as worries about degradingness, cruelty, and the absence of standing to punish.

In this paper, I identify a distinctive source of excess, proposing that a practice of punishment that exhibits no restraint in the imposition of warranted punishment is inherently excessive. I propose that an underexplored aspect of human personhood, human fallibility, generates reason in favor of refraining from imposing the full burdens of punishment upon those whose punishment is otherwise justified, and that punishment practices ought to accommodate this morally significant fact of fallibility. Next, I develop a concrete proposal that delineates when such restraint is in order: an ethics of second chances. I further demonstrate that the proposed grounds for forbearance in punishment are distinct from classic appeals in favor of mercy and leniency in punishment: second chances are owed as a matter of duty rather than gift, yet without being grounded in the epistemic or process inadequacies of our punitive practices. Finally, I look to the law to find traces of an ethic of second chances in existing doctrine and theory, and to develop further mechanisms which might be expanded to make more room for the extension of second chances in criminal law.

ABOUT THE SPEAKER



Leora Dahan Katz is an Assistant Professor at the Law Faculty of the Hebrew University of Jerusalem. Her research focuses on criminal law, criminal theory, legal philosophy and moral philosophy, with special focus on the philosophy of punishment. Before joining the faculty, Dr. Dahan Katz held a post-doctoral fellowship at the Polonsky Academy for Advanced Study in the Humanities and Social Sciences at the Van Leer Jerusalem Institute, as well as a fellowship at the Institute for Advanced Studies. Dr. Dahan Katz received her LL.M. and J.S.D. from the Yale Law School. She has published in leading peer review journals, including Law and Philosophy, Legal Theory, the University of Toronto Law Journal and Ethics.

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