The Problem of Punishment

In this book, David Boonin examines the problem of punishment, particularly the problem of explaining why it is morally permissible for the state to treat those who break the law differently from those who do not. Boonin argues that there is no satisfactory solution to this problem and that the practice of legal punishment should therefore be abolished. Providing a detailed account of the nature of punishment and the problems that it generates, he offers a comprehensive and critical survey of the various solutions that have been offered to the problem and concludes by considering victim restitution as an alternative to punishment. Written in a clear and accessible style, *The Problem of Punishment* will be of interest both to anyone looking for a critical introduction to the subject and to anyone who is already familiar with it.

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The Problem of Punishment

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For Leah, Eli, and Sadie – my greatest rewards
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Preface

Most of my beliefs about relatively uncontroversial moral matters are relatively uncontroversial. We should generally be nice to each other, keep our promises, tell the truth, refrain from committing theft, arson, murder, and so on. Most people believe these things, and I do, too. Some of my beliefs about moral matters, of course, are more controversial. But these tend to be beliefs about matters that are themselves more controversial, things like abortion, animal rights, cloning, and so forth. If there were an uncontroversial position on these issues, chances are good that that position would be mine as well.

As far as I can tell, in fact, there is just one conspicuous exception to this general pattern. Most people believe that if it is just and reasonable for the state to prohibit a given form of behavior, then it is morally permissible for the state to punish those who persist in engaging in it. I don’t believe this. I don’t believe that it is morally permissible for the state to punish people for breaking the law. And I don’t believe this because belief in the moral permissibility of legal punishment strikes me as inconsistent with many other things that I do believe.

I’ve felt this way about punishment for quite some time, and this fact has always struck me as puzzling. If most of my moral beliefs are the same as the moral beliefs of most other people, and if my rejection of the moral permissibility of punishment seems to be the natural upshot of most of my moral beliefs, then shouldn’t most other people reject punishment too? Have most other people recognized something important about punishment that I’ve failed to see? Or have I been struck by something important about punishment that most people have overlooked? I have wondered about these questions for a long time.

The best way I know to learn about a philosophical problem is to teach a course on it. And so, several years ago, knowing virtually nothing about the philosophical literature on the subject, I designed and started to teach a course on the problem of punishment. The result of that undertaking is
this book. I hope it will be of use to those who are looking at the literature on the subject for the first time as well as of interest to those who are already deeply familiar with it.

Since this book could not have been written without the thoughtful and enthusiastic questions and comments I received from my students when I taught this material over the past several years, my single greatest debt is to them and I am pleased to acknowledge their contributions first. In addition, I received a great deal of feedback from a number of my colleagues, both in the form of comments on earlier drafts of parts of my manuscript and during discussions at a series of talks I gave over a period of a few years at our department’s Center for Values and Social Policy. As far as I can tell, I did not succeed in convincing any of my colleagues to adopt my views, but many of them certainly succeeded in convincing me of numerous respects in which my work in progress needed improvement. Of these, I particularly thank Claudia Mills and my former colleague Jim Nickel for being so generous with their valuable time. For comments on extensive portions of earlier versions of the manuscript, I am also grateful to my father, Leonard Boonin, a former student of mine, Dan Korman, Thom Brooks, Jason Hanna, Jason Wyckoff, several anonymous referees for Cambridge University Press, and, above all, Gerald Postema, whose extremely sharp and focused comments on the first version of the manuscript that I submitted to Cambridge were indispensable in helping me to revise it with an eye toward publication.

For financial assistance in helping me to complete this project, I am grateful to the National Endowment for the Humanities for a summer research fellowship that I used to draft an early version of what eventually became Chapter 5, to the University of Colorado for granting me a research leave that I used to begin work on the project and a sabbatical that I later used to complete a full draft of the manuscript, and to the University of Canterbury for an Erskine Fellowship that enabled me to spend that sabbatical working on the book while in residence at its School of Philosophy and Religious Studies. Getting away from it all to the South Island of New Zealand was the perfect way to clear my mind and make the final push toward completing this project, and I’m grateful to everyone there who made my family’s stay so memorable, especially Philip Catton and Carolyn Mason.

Finally, I am happy to acknowledge my immeasurable gratitude to my wife, Leah, and to my children, Eli and Sadie. This book is for them.