2023

Emotions as social objects in the justice system: how feelings develop in justice processes and what they do.

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Submitted to the Faculty of the Graduate School of
Eastern Kentucky University
in partial fulfillment of the requirements for the degree of

MASTER OF ARTS

2023

ACKNOWLEDGEMENTS

ABSTRACT

Criminological research on emotionality and emotional demonstration in justice

processes remains underdeveloped. One method of approaching the issue of

understanding emotions in the justice setting is to conceptualize them as a form of social

communication, impacted by the structure of the legal domain yet holding significant

influence on their own. This thesis seeks to establish how emotions are rooted in social

dynamics, and how the justice system, in both restorative and punitive contexts, including

prison environments, creates specific social conditions that guide emotional

demonstration and interpretation. The comprehensive review of established literature

leads to the initial conclusion that emotions are representations of greater social

phenomenon in the justice setting and are impacted by, and impactful on, the legal

efforts.

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PART I: INTRODUCTION

The criminal justice system is often perceived as a representation of our attitude towards crime and the desire for punishment. But it would be unwise to solely rely on this one definition of the criminal justice system, as it borrows heavily from the restricted perspective of mainstream criminology. It instead pays off to acknowledge what the system communicates to us besides strict punishment, which often eludes dominant discussions in the field. For example, we might perceive the justice system as a teacher which guides the population through legal socialization, showing us right and wrong and the consequences that follow (Justice & Meares, 2014). Or it can be viewed as a representation of society's own shortcomings as a result of our biases, as is evident by the inequalities perpetuated within the legal domain (Petersilia, 1985).

One area that seems to receive little to no focus, however, is what the justice system communicates to us about the nature of emotions. There has been a recognizable shift in tolerating the expression of emotions and acknowledging their existence without justice procedure, perhaps the result of a society that has begun to appraise emotional demonstration rather than suppressing it (Karstedt, 2002). But the present issue is that there appears to be an absence of a comprehensive analysis of how emotions find themselves interacting with the criminal justice system on each level, individual to procedural. This thesis argues that such a shortcoming must be remedied, that emotions should be conceptualized and understood in the context of the justice system in an effort to learn more about their role in the process.

This thesis takes on the assumption that emotions are to a degree a socially constructed idea that is both impacted by the setup of a given space, but also capable of

influencing that space as well. In doing this I also seek to define the justice system as a social space itself, to demonstrate that the will of the people and the influence of structure come together to establish a social reality. The first part of this thesis will deal with a conceptualization of social spaces and emotions, along with a demonstration of how emotions can be defined as social (with examples) and a brief overview of how crime theory has already approached these concepts. The second part of this thesis is the actual conceptualization of the justice system as a social space and the ways in which emotions breach its confines to impose symbolic meaning. The final part of this thesis deals with identifying the prison as a social space where prisoners and officers alike follow regulations on emotional states to thrive, but also bring in important conditions that affect the institution as well.

PART II: CONCEPTUALIZING EMOTIONS & SOCIAL SPACES

The Social Space

The first necessary discussion that must be had regarding this topic revolves around a sociological inquiry that continues to evolve: what is a social space? Initially, it might be sufficient to simply define such a construct as an area or region where people interact with each other. But a basic definition such as the one posed above does not account for the multi-faceted nature of space and the numerous impacts that shape zones of interaction. Therefore, a deeper analysis is required.

I might start off by examining the concept through different theoretical alignments, all of which have various explanations for how to define and quantify the social space. The first that will be discussed is the perspective of social constructionism. Through this lens, the reality we perceive is created through a process of interaction with the dominant structure of a given place, i.e., the way in which ideologies are established based on history, produced value, etc., and how we define something as meaningful and useful to our livelihood comes directly from knowledge received from operating under it (Galbin, 2014). The social body adopts a specific identity that is derived from the structural setup of the space in which they reside, based off of conditions that only exist because the society at that moment promotes or requires them to continue (Burr & Dick, 2017). Belonging becomes reinforced through a form of categorical development based around context (Allen, 2005). And because this sense of belonging becomes so crucial to the maintenance and performance of the society, people come together through a collective conscience and stand in solidarity on issues that threaten the social whole (Durkheim, 1893). There is a strong argument to be made

for the social constructionist perspective. Take, for example, the social establishment of gender and how perceived roles of sexes are either rigid based off of one construction, or fluid and everchanging in another (Lorber & Farrell, 1991). One can also point to the presence and relevance of specific objects, like cars; some areas are defined by motor production and require vehicles as transportation in a modern setting, while others root themselves in traditional farming etiquette and refuse, or even despise, the implementation of vehicular domination (Kline & Pinch, 1996). The point being made here is that there are definitions and meanings set in place by the structure of a given area that influence popular perceptions and guide attitudes and behavior. This is the argument that is made by the social constructionist viewpoint.

Another perspective becomes valuable in understanding social space: the symbolic interactionist approach. It might be easy at first to spot the similarities between social constructionism and symbolic interactionism, but the basis of the argument is different. Early scholars that adopted this approach were either set on separating the individual from objective structure completely and having the human condition be the guiding force behind the construction of symbolic meaning and interaction (Becker, 1970; Layder, 1994) or at the very least giving the individual power to define structural significance on their own terms and through personal action (Mead, 1934; Layder, 1994). But takes on symbolic interaction, such as that of Blumer (1969), offer up a different explanation: the structure of a given space indeed imposes operating definitions to be followed, but the people within that space have the power to interpret freely and act in accordance with their own values or that of the group, although to a much lesser extent.

Relying on a strict social constructionist explanation for how and why social spaces operate in particular fashions neglects the role of the individual to a certain extent, while focusing solely on human value fails to account for obvious structural influence. Bourdieu (1989), in what might be perceived as an effort to remedy this shortcoming, argues that social space should instead be thought of as a construct brought together by two components: the actual objective structure of the space which does establish a guiding framework for how people and institutions should conduct themselves, and the subjective actions and beliefs of the people within the space which act in accordance to, or as a force against, the mechanisms of the structure. Reality, according to Bourdieu, is a combination of what is fundamentally true based on the setup of a location, and what is perceived to be true by the social body. The symbolic nature of objects and activities can be differentiated amongst groups and classes which share different social boundaries, and these distinctions may be quantified and representable, yet they still exist as social constructions that develop through the decisions and interactions of the people (Bourdieu, 1985). Bourdieu further explains that the social space operates in a reflective manner; the position of the individual is transformed into the collective pursuit, and that pursuit can be broken down into values and norms held at the individual level (1996). I have chosen to adopt Bourdieu's explanation on the dichotomy between structural and social influence as the framework for this analysis.

Emotions

Emotions are complex phenomena that have puzzled the social sciences for centuries, as no single explanation for their existence has gone without some form of

challenge or debate (Scherer, 2005). Psychological perspectives attempted to derive meaning from emotions based on their linkage with other bodily mechanisms like cognition, physiology, and mental capability which gave them meaning by proxy (Lazarus & Folkman, 1984; Schacter & Singer, 1962). Others view emotions as a byproduct of humanity's adaptation, a universal marker within all people that assists in our survival as a species (Darwin, 1872; Ekman, 1970). One could simply explain emotions as intense feelings which grant us some sort of pleasure or displeasure, and their meaning comes from the way they make us feel (Cabanac, 2002).

For this thesis, however, I have chosen to analyze emotions as a form of socially influenced (and socially influencing) mitigator. This, of course, implies that emotions are less predetermined by any set bodily function or preconceived notion and more so reliant on environment and social structure (Von Scheve & Von Luede, 2005). They become attached to objects and conditions and end up serving not just as an intrinsic process but something that is reflective of the reality in which a given person finds themselves (Barrett, 2012). Emotions are expressed in forms that are congruent with the norms and values of a given sociocultural structure; humanity learns when, where, and how to express emotions based on context (McCarthy, 1994; Oxford, 2015). They can be a method of communication, both verbal and nonverbal, and oftentimes demonstrated collectively, demonstrating a social understanding of their meaning and belonging in that space (Parkinson, 1996). Language and actions that are specifically meant to convey certain emotions among different groups are relative to social organization and carry connotations derived from dominant views and beliefs (Jain, 1994). Yet these descriptions are still heavily rooted in a social constructionist

viewpoint. So, while the previous explanation of emotions as social actions still stands, it is important to note that they arise from the individual's association with the social space, developed through unique patterns that are guided by the structure of society but not resulting or separate from it (Shott, 1979). Emotions may be viewed as measurements of how well we fit into a given social environment as an individual and the value we give to our interactions in general (Fields, Copp, & Kleinman, 2006).

Why is it that I chose to analyze emotions through a more sociological perspective, particularly in the case of the justice system? Let us briefly create a counterargument to this by utilizing another emotional theory, one rooted in evolution. Regarding emotions, the evolutionary perspective tends to categorize specific responses as 'basic'; they are primary reactions that are less reliant on cognition and more on the primal desire to succeed in our biological pursuits (Pacella, Ponticorvo, Gigliotta, & Miglino, 2017). Acknowledging this perspective as true would lead us to believe that certain criminal activities, perhaps sexual assault and rape, are a byproduct of the emotions that evolved with the masculine desire for successful reproduction (Quinsey, 2002). And if this is indeed the case, a courtroom appraisal of emotions or a thorough interpretation would be unnecessary because it is not the man's fault for being a man. Not only is this line of thought congruent with what might see out of works by Lombroso (1911) who also relied on biological determination for explanations of crime, but it assumes only one potential explanation for emotions. But it has been established that crimes like rape are prevalent among specific social dimensions, and the responses to those actions are different based on context as well (Phillips, 2017). Therefore, a socially oriented theory allows us to comprehend the basis of emotional expression

more thoroughly and perhaps attribute it to a larger pattern of thought and action. This isn't to completely denounce the potential value of other theories such as the one explored above, though we do find challenges to ethics when we do utilize these approaches.

Crime Theory, Emotions, and Social Space

This thesis primarily focuses on how the justice system can be defined as a social space and how emotions factor into the function of said space. However, it should be noted here that criminological theory is not unaware of the impact space and emotions have, just that many of the dominant theories use them as an explanation for crime itself. Take, for example, the original strain theory developed by Merton (1938). In this case the role of the social structure is quite obvious; unreachable expectations perpetuated by the larger whole causes a dilemma for the individual which might develop into a criminal response. Take financial expectations and the socioeconomic conditions which prevent people from maintaining security as an example of this particular form of strain. Later this theory would be expanded upon and retitled general strain theory by Agnew (1992). And Agnew's explanation would not only seek to demonstrate how strain can result from tension between numerous other social units besides just class or economic placement, but also how negative emotions coincide with the social obstacles faced. Then there's social control theory developed by Hirschi (1969), which based the production of crime around the failure to establish significant bonds with the constructs around the individual. Attachment, one such bond that Hirschi mentions, is both social and emotional; it involves close interaction with a meaningful other and is also closely related to our ability to regulate our emotions effectively within

these intimate relationships (Feeney, 1995). Commitment is based around the positive

emotions which strengthen the connection between people and constructs, and without

these emotions, commitment becomes weaker (Lawler, 2001; Price & Collett, 2012).

Crime itself is an activity that is heavily rooted in social dynamics; it can be seen as a

form of resistance against a social hierarchy, one that is perceived as neglectful and

marginalizing, and conducted in an effort by people to survive and remain relevant in a

given area (Lea, 1999). Group crime (gangs, for example) sees the synchronization of

beliefs, attitudes, and emotions as the guiding force which creates the tension between

one social order and another (Benson & Sams, 2013).

Specific Emotions

Briefly, I would like to establish how certain emotions, which might be

perceived as negative, have social components that tie their demonstration and

interpretation back to the values and beliefs of a larger structural whole. I will come

back to these emotions in the second chapter of this thesis. The emotions that I have

chosen to analyze are regret, remorse, shame, and guilt. These, of course, are only a few

emotions to consider.

Regret has no one clear definition, although many have tried to derive one from

the nature of the emotion itself (Gilovich & Medvec, 1995). The conflict does not just

exist in trying to give meaning to the word, however; understanding regret is a task in

and of itself. Landman (1987) explains that regret is an extremely complex emotion,

separate from other, easily observable negative emotions, and therefore has largely been

ignored in research. Despite this complexity, however, regret is an observable

condition. A study conducted by McCormack, Feeney, and Beck (2020) reviewing

research on children's ability to display the emotion found that children were able to express regret around the age of six, and there is speculation as to whether or not younger ages can express it as well, as a result of particular decisions. It does seem that regret as an emotion is closely tied to the decision-making process and is based on evaluations of other outcomes, along with how the individual views themselves after the decisions (Connolly & Zeelenberg, 2002). Regret is also variable, dependent on the action or event that it is attached to (Gilovich, Medvec, & Kahneman, 1998). One last point that should be considered is that despite regret's status as a negative emotion, its effects can be overwhelmingly positive. Research conducted by Saffrey, Summerville, and Roese (2008) found that after sampling college students and having them answer questions regarding negative emotions, the majority of those sampled expressed a more benign outlook on their regret experience, seeing it as a teaching tool and a method of reflection. While regret has been observable and quantified via self-reports, actually being able to scientifically perceive accurate amounts of the emotion have proven a challenge. Attempts have been made to measure the true presence of regret as a result of decision-making via instruments, but these efforts have fallen short of expectations and fail to consider the adaptability of the emotion (Joseph-Williams, Edwards, and Elwyn, 2010).

Thalberg (1963) defines remorse in terms of morality, present when we break our own codes, representative of our true selves. The author goes on to explain how remorse, although often cited as a synonym for regret, is entirely different from the latter emotion; one can be present without the other, and they serve different functions. However, like regret, remorse is not just presentable in one fashion; Phillips and Price

(1967) argue that remorse does not follow one specific pattern and can be expressed even when decisions reflective of true values are committed. In a research study conducted by Nelisson (2012, the author found that self-punishment as a result of feeling guilty can be a representation of remorse, though to varying degrees based on the events to which it is attached. There are also different ways to categorize remorse. For example, De Wijze (2005) argues the need to consider a phenomenon known as tragic-remorse, where one betrays their moral code and potentially causes harm to one individual, while seeking out a resolution to an issue. There is also preferential remorse, where the value of the emotion is dependent on the individual demonstrating it. A study by Vaish and Oostenbroek (2022) found that, when examining the propensity for preschoolers to forgive based on expressions of someone else's wrongdoing, the children favored the responses of those who were part of their close social circle.

Next, it is important to discuss shame. When describing the nature of shame, Dickerson, Gruenewald, and Kemeny (2004) state the emotion arises "when perceptions of negative social evaluation are transformed into negative self-evaluation" (1195). Shame is, therefore, often conceptualized as a social phenomenon, as it is often imposed by others. However, wrongdoing is not a prerequisite to experiencing shame; irrespective of fault, when the social self is threatened by a negative image, the individual is likely to express the emotion (Robertson, Sznycer, Delton, Tooby, & Cosmides, 2018). Shame, alongside being its own influential emotion, can also serve as a mitigator for other emotions as well, and as a result, can provoke feelings of defensiveness (Gilbert, 2003). . It should be noted here that social constructionists have come to value shame as a situational phenomenon that is the byproduct of challenging

what a unified whole has come to define as normal (Adler-Nissen, 2016). Through a symbolic-interactionist lens, it originates as a devaluation within the individual caused by the values imposed by the larger consensus (Shott, 1979).

Finally, we arrive at guilt. Guilt is interesting in the way that it is often confused with shame, but the two emotions are inherently different; shame is focused on the self, but guilt is directed towards the pain of others (Miceli and Castelfranchi, 2018). In this sense, guilt may be more related to an emotion such as remorse, where the morality of the individual, and the aspect of harm to someone else, is considered. However, one similarity between guilt and shame could be the social aspect of the emotion; specific demonstrations of guilt are guided by the relationships the individual has with those close to them, on a familial and communal level (Baumeister, Stillwell, & Heatherton, 1994).

PART III: WITHIN THE SYSTEM

How might we conceptualize the criminal justice dynamic as one that is inherently social and constructed by meaningful interaction both inside and outside of its traditional confines? Surely the fact that the legal process is carried out in full by human beings is enough to satisfy this inquiry, yet the underlying structure and functionality of the system and the locations within it is of concern in this thesis. Let's start broadly and establish how the social establishes itself in the guiding principles which are meant to govern our behavior on an individual and societal basis, laws. Laws are, in a sense, the basis for sustaining the perception of a consistent, equal social normality, although the neutrality of the law is often called into question based on the forces which govern it (Krever, 2013). On the flip side, laws are also the byproduct of the social values that are commonplace within a given space, often symbolic of what a society deems reasonable or unreasonable action (Sullaway, 2004). Laws become relevant in the social sense when their importance is derived not just from a shared morality, but also in how they reflect the consensus and conflicting ideas that surround tasks that occur within an area (Fuller, 1942).

We might also examine one of the many locations within the justice system to provide an explanation for its social significance, the courtroom. Court is a zone that is not independent from the societal developments occurring outside of it; its performance is in part reliant on the sociocultural backdrop of the space it is in, such as differences in political alignments, economic disparities, and environmental contexts which shape the definitions of law and order (Johnson, 2005). Inside of the courtroom, ritualistic interactions and expected social behaviors construct a fluent practice of lawful

procedure (Maynard, 1983). Despite the common perception of such a space being detached from the typical social organization, it remains a location where ties between people, shared ideas on the social and judicial level, and the performance and expression of normative values become intertwined with the legal process (Dahlberg, 2009).

Justice, being socially malleable, is not protected from the power of emotionality exhibited by the greater whole; in fact, it works in tandem with it, channeling the most negative emotional reactions to crime and deviancy and transforming those reactions into feelings of ease by using them as the foundation for law and policy, as in the case of constructing laws around hate crimes and crimes of passion (Karstedt, 2002). Oftentimes, it is fear, anger, and disgust that drives the communal structure towards harsher penal procedure, to preserve the social space's integrity-without consideration of logical deterrents or desistance techniques which might be more effective in addressing criminality in general (Karstedt, 2002; Freiberg & Carson, 2010). Within the judicial process we see emotions follow the same structurally influenced social flow as in other spaces, guided by predetermined feeling rules and delineated between positions of social bodies, such as in the case of power dynamics between judges, attorneys, and defendants (Scarduzio, 2011).

Emotions can indeed be reflective of societal belonging within a setting that is by most people's definition distant in the social formation. However, the justice system also imposes its own limitations to understanding emotionality. These can be found in the quest of the judicial process to remain neutral, or how emotions are considered differently based on who is demonstrating them, and the consideration of their potential

manipulation makes acknowledging and further accepting emotions as evidence of

some greater phenomenon difficult (Dahlberg, 2009; Scarduzio, 2011). In the effort to

understand and incorporate emotions into practice, the justice system also makes a

qualitative error in its conceptualization of them, assuming dominant moral scripts as

the basis for their expression but then disregarding such demonstrations when the

perceived emotion is not in line with the assumed morality of the whole (Kahan &

Nussbaum, 1996). Yet the differences in mechanism and performance between what we

might perceive as the normal social organization's utilization of emotions and that of

the justice system is not an illustration of this argument's shortcomings, nor does it

contrast the perception of the system as a social space influenced by outside factors. It

simply details the distinction in symbolic worth between groups that comprise a larger

whole. We might reference Bourdieu (1985) and his analysis of symbolic capital

between groups or classes as support for this claim.

Now that we have partly addressed the extent of the justice system as a social

space, and how emotions are perceived and interpreted within that space, it would be

beneficial to move onto real-world examples of the socio-emotional influence of

emotions in the justice setting. To do this, I have chosen to divide the justice system

into two distinct categories: the restorative and the punitive. Above I have largely

discussed the performance of social interaction within the confines of the latter, but as I

will illustrate, there is not only emotional significance in both domains, but the ways in

which they are presented, the meaning that is derived from them, and the overall

outcome they have on the judicial process differ dramatically. To clarify, the punitive

pursuit of the justice system is focused on strict liability for one's actions and

consequences for unlawful behavior, whereas restorative justice is concerned with mending broken social ties between those responsible for criminal activity (the offender) and those impacted by it (Szablowinski, 2008). This chapter will treat these two zones as their own social spaces. However, I wish to address a caveat that might serve as a challenge to this distinction; restorative justice, no matter how different in approach or desired outcome, falls victim to carceral logic once it is implemented into the strict traditional procedure (Maglione, 2021). Therefore, I wish to clarify that I will treat restorative justice as a detached form and choose to focus on procedures that are not closely linked to the punitive nature of the law.

Restorative Justice, Emotional Significance, and Social Influence

Restorative justice is still a relatively new phenomenon, only gaining significant traction in the last six or seven decades yet has managed to garner attention and respect as a potentially more effective method of promoting desistance compared to its punitive counterpart (Menkel-Meadow, 2007). It denounces much of the carceral ideology of swift justice without efficient deterrents to future criminality (Saulnier & Sivasubramaniam, 2015). Restorative justice practices are more interpretive in their analysis of crime and offender behaviors and seek to understand the more critical aspects of the individual in making inferences on proper outcomes. Calls for its integration into the traditional justice approach, such as in the form of larger implementation of therapeutic jurisprudence (Wexler, 1998) and effective reformation advances (Haney, 2006) echo the popularity of the restorative stance.

Restorative justice is founded on the idea that the individual is capable of acting in accordance with dominant social perceptions and reinforcing themselves as

representations of those same values through owning responsibility (Walgrave, Aertsen, Parmentier, Vanfraechem, & Zinsstag, 2013). But how can we determine if the individual is truly empathetic to the goals of the whole in the restorative setting? Are there any markers which we might observe to make this assumption? I argue that it is the emotions present within the restorative justice domain which serve as these symbolic communicators.

This is not a new perspective, of course, as it served as the basis for one of the most popular criminological theories that regarded the effectiveness of emotions in the process of restorative efforts: Reintegrative Shaming Theory (RST) (Braithwaite, 1989). Braithwaite's novel contribution to the field suggested that shame, implemented in a socially intimate manner rather than a justice or procedural level, had the capability of reinforcing prosocial ideologies within the offender that resulted in desistance. And while Braithwaite's original theory came under scrutiny for its lack of explanation for potentially adverse reactions to the emotion's implementation (Tangney, Stuewig, & Hafez, 2011; Van Stokkom, 2002), the potential role of emotions in effective restorative justice was never disregarded. Conceptual and experimental research on the emotions listed in the previous chapter- remorse, regret, and guilt- all explain how the presence of these emotions serve as indicators for change and participation in restorative efforts (Bennett, 2021; Harris, Walgrave, & Braithwaite, 2004; Peleg-Koriat & Weimman-Saks, 2021; Von Hirsch, Ashworth, & Shearing, 2003).

I have chosen to look at one particular example of restorative practice to demonstrate the socially symbolic nature of emotions: victim-offender mediation (VOM). VOM is a practice that is often defined as a more human approach to justice,

having implications for both adult and youth offenders and yielding significant results in terms of diminishing recidivism (Umbreit, Coates, & Vos, 2004). It has received much popularity since its inception and is used widely in the United States and other regions of the world (Kimbrell, Wilson, & Olaghere, 2023). In VOM, emotions are guided by expectations that Rypi (2016) calls feeling rules; there is a desire for the offender to experience some sort of strong emotional reaction, such as remorse, in the presence of the victim to demonstrate their ownership of fault and propensity to change. Such emotions might be embodied in another gesture known as apology. Apology is meaningful because it is a straightforward expression of admitting wrongdoing, a crucial part to successful VOM (Dhami, 2015). It is a symbolic effort to communicate one's desire to repair broken connections that resulted from criminality (Shapland, Atkinson, Atkinson, Colledge, Dignan, Howes, Johnstone, Robinson, & Sorsby, 2006). Alongside the offender's own demonstration of emotions, VOM witnesses the victim transforming negative emotional states into positive, benign experiences through this interaction, namely through the expression of forgiveness (Pemberton, Winkel, & Groenhuijsen, 2007). We may also point to the sense of solidarity that is gradually developed between the social bodies involved in the effort, where unification is achieved through consensus on events and expectations (Rossner, 2011; Rossner & Bruce, 2018).

Punitive Justice, Emotional Significance, and Social Influence

Restorative justice procedures, as explained earlier, are intimate in nature and rely on the relations between the victim, offender, and at times community to advance reparative action, desistance, and emotional solidarity. We perceive those bodies in that

process as most impacted by emotional expression. However, in entering the punitive domain of criminal justice, there are significant changes to the types of social bodies that are involved and the setting which they conduct their business. One such location is the courtroom. The courtroom is a symbolic space where social bodies are conjoined together to carry out a purpose that is by most standards distinct from the normal pursuits of society, yet it remains a location where social interactions, such as the conveyance of emotionality to other bodies, are bred and reinforced as meaningful and essential, while accounted for and controlled by structural design (Dahlberg, 2009). We might illustrate the relationship between the social and the emotional by observing how such demonstrations are interpreted by the personnel involved in the courtroom procedure.

First, consider the body known as the jury. Juries are not immune to the emotional weight which exists in the courtroom, despite their function as an impartial group. A study by Nadler and Rose (2003) demonstrated this when analyzing the presence of strong emotions such as anger, sympathy, and disgust amongst mock jury members after being exposed to victim impact statements which conveyed similar emotional responses; these emotions also influenced the preferred punishments for the offender in question. A similar study by Nunez, Myers, Wilkowski, and Schweitzer (2017) found that a mock jury was more prone to administering capital punishment towards an offender when victim impact statements conveyed anger, coinciding with the personal development of the same emotions amongst the jury. We might relate the concept of shared emotionality among groups (the victim and jury, in this regard) to the solidarity that is often promoted in the restorative justice setting. Emotional connections

in the more punitive setting do seem to act similar in the ways that they reinforce the relationship between social bodies. The biggest discrepancy comes from the consequence of these demonstrations. An offender's recognition and expression, for example, might not be as tolerated or significant in the courtroom setting compared to if it came from the victim; research indicates that although emotionality by the offender is often perceived as a mitigating variable, its effect on sentencing outcomes is far less influential, and can actually negatively impact verdicts in certain cases (Corwin, Cramer, Griffin, & Brodsky, 2012; Jehle, Miller, & Kemmelmeier, 2009). Corwin et. al (2012) explain this phenomenon as a result of jury interpretation which is either limited in acceptability of emotions, disregarding of them in general, or perhaps a byproduct of searching for feigning symptoms.

We might also consider another body within the punitive domain, the judge. Judges aren't completely absent from restorative justice practices, as is evident in their role during mediation and their ability to alter sentences based on social interactions (Rossner, 2011). But it can be argued that their most common perception is in front of the courtroom during trial proceedings. Much like the jury's interpretations of emotions, judges are also tasked with understanding and considering the role of emotionality in the courtroom. Judges might be confident in their ability to accurately tell whether an offender is remorseful for their actions, while others are less certain on the true nature of the emotion, such as whether it is truly genuine or crafted for legal purposes (Rossmanith, Tudor, & Proeve, 2018). Some suggest different approaches to interpreting remorse based on its timing in the procedure and its relation to the offense committed, as well as its relationship to other psychological phenomena (Zhong,

Baranoski, Feigenson, Davidson, Buchanan, & Zonana, 2014; Zhong, 2015). These variations carry the potential to change the judge's sentencing outcomes for the offender (Rossmanith et. al, 2018).

Now let's step away from the traditional courtroom setting and examine another legal process that exists on another point of the judicial timeline, known as parole. A parole hearing is a social construct at heart, where the offender and a selected panel of board members converse on the future conditions of the offender's sentence and potential release from incarceration. This, too, is a process where emotions are heavy mitigators. Certain emotions that are reflective of growth in the eyes of the board might have a positive influence on obtaining parole, whereas negative emotions that are perceived as a failure to conform might not; emotional congruency, how the emotions of the offender mesh with those of the board, and a lack of mutual consensus due to divergent emotional patterns are also indicative of a certain response (Yelderman, Estrada-Reynolds, & Lawrence, 2022). Members of a parole board might consider remorse as a sign of reform in the offender, but their tendency to set a specific standard for its expression, and the ability to misinterpret the genuine (or nongenuine) demonstrations of it, make it incredibly difficult for accurate evaluation (Young & Chimowitz, 2022). It should also be noted that parole boards are searching for certain emotions that demonstrate a need for further reformation alongside the presence of emotions like remorse; anger towards circumstances expressed by the offender might be grounds for dismissing true feelings or desires (Greene & Dalke, 2021).

Let us briefly take a moment to discuss how the social directions within the criminal justice setting interweaves with emotionality. Let us draw off the concept of

solidarity for this explanation. First, it should be noted that in both domains, it appears that the common function of emotions is to convey a specific message to the social parties involved during the procedure. In restorative justice, these emotions are meant to identify the positions of each body that is participating. As Rossner (2011) revealed, solidarity shared amongst all individuals involved led to the successful conduction of the mediation conference, because all parties came to a generalized conclusion once their emotions had become synchronized. In the punitive setting, emotions are treated in a similar manner; the expressions of emotionality led to an adoption of such feelings by jury members and in the process connected the victim's current state to the mission of the justice system (Nadler & Rose, 2003). We might further use this information to support the idea that emotions in general are reflections of our moral values, as explained in the earlier chapter.

Let us also use our adopted perspective, that from Bourdieu, to enhance this argument. First, it is clear now that the different spaces mentioned, the restorative and the punitive, both have different conceptualizations of emotions and their perceived importance. They are symbolic in both arenas yet interpretations and meaning vary depending on the goal of the practice. For example, one might perceive emotions in the restorative setting as a form of honest reflection, whereas in the punitive setting they might be viewed as more of a mitigator to achieve a specific outcome. But even when the structure, such as that of the punitive side, tries to limit the symbolism of emotionality, the people still remain social actors that can make passionate, comprehensive decisions on how to accept and defer emotional expression. I find that

this is, in a nutshell, a branch off of Bourdieu's analysis and serves as a concrete

example of the importance of people and structure together, not divided.

Emotional Manipulation

In the previous section, I discussed how it is sometimes difficult to accurately

assess the expression of emotions in a legal setting due to potential falsification

(Rossmanith et. al, 2018). This is an important topic of concern regarding the extent of

emotions in the justice system, especially if we are to address the full extent of their

existence in procedure. Reformative practices like restorative justice pursuits rely on the

expression of emotions such as remorse to continue the offender down a path of

reparation, but in upholding such a standard, it would not be illogical to assume the

offender would adopt a given set of expressions to appeal to the desires of the law

despite not actually genuinely feeling such a way. The knowledge that the offender

could be feigning their actual emotional condition to benefit their own circumstance

could potentially lead to the rejection of apology and absence of forgiveness (Bibas,

2007) or other consequences such as denial of parole (Young & Chimowitz, 2022).

This, again, is reflective of the social nature of emotions in the justice setting, as the

individual must learn what emotions are appropriate to express during a given scenario.

PART IV: PRISONERS & INSTITUTIONALIZED EMOTIONS

For the majority of this thesis, we have stayed in the confines of justice procedure. We have examined judicial proceedings and the social (and emotional) dynamics which exist in those practices. However, for the final section of this thesis, I wish to draw attention to another, perhaps more elusive zone of the justice system: the penal institution, i.e., the prison. It might be a tad odd confronting this issue given the functionality of prisons; their tendency to separate and 'other' marginalized groups of the population through isolation and discrimination (Agozino, 2000; McKittrick, 2011; Singer, 1971; Staszak, 2008) essentially serves as the direct antithesis to this argument. Prisoners are not regarded as part of the larger social order and are bound by carceral logic that undermines their capability to act in civil manners (Warner, 1998). If one chooses to adopt these dominant ideologies as truth, then there might not be any need to relate the prison back to any larger social construction, because it wouldn't be relevant.

But social theory warrants the recognition of the prison as a space of interaction where values of people and place mesh to create a functioning system of ideals. Two theoretical alignments seek to explain the social nature of the prison setting. The deprivation model (Sykes, 1958) might be thought of as more of a constructionist perspective; it is the prison that imposes regulations through design, population, and segregation, giving rise to set social and power dynamics (Butler, Slade, & Dias, 2018). The importation model (Irwin & Cressey, 1962) takes a different approach and explains that prisoners can translate their previous mentalities and behaviors from the outside world into the system; there is then the potential, but no guarantee, for these pre-prison

conditions to become part of the inmate identity (Thomas & Foster, 1973). However, adopting one of these perspectives over the other has forced research to be carried out in a one-lane manner that fails to consider aspects of each; a combined model, one that understands the role of structure and individuality, might be the perfect solution (Dye, 2010). While I don't plan on diving deeper into the complexity of these models, I did wish to illustrate the background understanding of the social prison setting, and how both the structure and the individuals within it play a role in crafting this reality.

Prison perception is dependent on the social climate of the area in which they are located, as the messages they communicate on the value of punishment are interpreted and understood using social and contextual information, such as representations via media and changing political practices (Moran, Turner, & Schliehe, 2018). At the same time, prisons communicate a particular message of social control back at us, demonstrating their power over constructs such as gender, limited mobility (which signifies lack of autonomy), and the reinforcement of feelings such as fear (Moran, Piacentini, & Pallot, 2012). Carceral logic in general has become a highly influential social component, as it breaches even the most benign locations and imposes methods of social control, such as surveillance (Foucault, 1977; Moran et. al, 2018). Here it can be noted that the prison is in fact not as distant from our regular social functions as normally believed, but instead is influenced by (and influential on) basic society.

A prison is not just a destination for those convicted of felonies to serve out sentence for actions against the law. Its inner functionality is entirely dependent on the social framework shared amongst prisoners and their surroundings, and disruptions in

this network reflects social disparities in the setting (Bottoms, 1999). The social context of the prison, the relationships between prisoners, and the perceived benefits in belonging to certain classes within a social hierarchy within the institution are all guiding influences which might explain certain behaviors, such as violence, initiated in the environment by specific social bodies (De Viggiani, 2007). The introduction of outside conditions into the prison landscape widens the social dynamic and creates a complex relationship between individuals and guidelines (De Viggiani, 2006). One might even relate this construction back to Bourdieu; although Bourdieu doesn't primarily focus on prison environment, his core theme of structure AND people rather than one against the other can potentially be applied here, as the prison's set conditions impose on, but are not completely dominant over, the interactions of the individual and social body.

In the previous section of this thesis, I demonstrated the benefits and drawbacks of expressing emotions in criminal justice settings and the varying interpretations of said expressions amongst different bodies participating in them. It appears that in the prison context, the situation is no different. Being a social landscape that comes with its own guidelines on performance, prisons also dictate how emotions are presented by offenders, the spaces in which certain emotions are acceptable, and the consequences which might follow emotional expression (Crewe, Warr, Bennett, & Smith, 2014). Emotions in the prison landscape are regulated depending on circumstance and the goals meant to be achieved through demonstrating them (Laws & Crewe, 2016). Prisoners are tasked with finding methods of coping and proper emotional regulation to handle their circumstances appropriately, both of which are governed by the perceived

rigidity of their environment; specific emotions are suppressed to protect the prisoner from the attention of other offenders and the institution itself (Laws, 2019).

This is not to say that prisoners have no method of expressing their emotional states to others. Violence itself is an unhealthy method of decompressing from these strong, intense emotional states, which provides relief while also maintain a power position (Laws, 2019). Nor should we view the prison setting as completely callous towards any and all emotions. Emotions in the form of romantic gestures, for example, and demonstrations that convey commitment and honor, might be met with a lighter response from other prisoners than if they showed another emotional state (Crewe, 2006). The problem, however, is that many prisoners are not able to accurately account for their emotional states; they might find it difficult to convey emotions correctly or demonstrate appropriate emotions at the right times, leading to confusion and perhaps an even greater negative emotional experience (Hemming, Pratt, Shaw, & Haddock, 2020).

Emotions (or perceived lack thereof) amongst prisoners might be closely related to other social ideals that are reinforced in both the institutional and outside setting. Masculinity, for example, is perpetuated among male prisoners which results in a code determining an acceptable level of emotionality and how those emotions can be appropriately conveyed to other prisoners (Crewe et. al, 2014). Toxic masculine identities might not necessarily be representative of the individual entirely, but serve as a safeguard from victimization, portraying prisoners as an invulnerable threat, and emotional demonstration might degrade this barrier and paint the prisoner as weaker than his peers (De Viggiani, 2012). It is also worth noting that these masculine

tendencies are responsible for the refusal of services that might enhance the offender's ability to properly regulate emotional states (Kupers, 2005). On another note, the presentation of emotions might be related to other social ideals such as that of the family; a study by Rizki (2016) examined a handful of female prisoners and found that negative emotions arose in response to the inability to carry out motherly roles, obtain jobs and careers, and developmental failures according to the society which they live in. This desire for a family might make prisoners more likely to create emotional connections with congregations that hold similar values, which can lead to compassionate displays of emotions in various forms, such as sex (Hensley, Tewksbury, & Koscheski, 2002).

Thus far we have only focused on the dynamics between prisoners and structure. Now, I wish to draw attention to another population that exists within the prison system: corrections officers. Correctional officers, much like prisoners, are impacted by social circumstance. Officers might react to events within the prison in emotional forms congruent with the values and perceptions of the force, once again in an effort to hide strong emotional reactions and preserve the strength and integrity of the officer (Barry, 2020). Emotions are closely tied to desired social impressions which therefore require their management by officers in the prison landscape to notions of seriousness and rigidity (Crawley, 2004). Because correctional officers do not wish to undermine their work environment by demonstrating emotions that convey displeasure, they might be more prone to remaining neutral or inexpressive (Tracy, 2004). Correctional officers are reflections of the larger social emotions directed toward criminality, as can be observed

in their reinforcement of prison hierarchies by remaining neutral to some offenders and more callous to other, like sex offenders (Spencer & Ricciardelli, 2017).

Furthermore, the emotional experiences of the officers translate into attitudes directed towards the conditions of the offender; officers that feel emotionally drained in the social environment by interactions with prisoners might foster increased desires for punishment and control over them (Lambert, Barton-Bellessa, & Hogan, 2015). When prisoners and officers do communicate in a nonviolent and effective manner, such as through the use of appropriate humor, emotional tensions might subside, and parties are able to establish themselves within the same space as equals (Nielsen, 2011). Another important factor to consider is that officers must sometimes adapt their emotional regulation techniques to the type of prisoners and location they will be present in, making it difficult to interact in a consistent manner between all prison groups (Nylander, Lindberg, & Bruhn, 2011).

PART V: CONCLUSION

Despite one's best efforts to understand emotions to their full extent, the reality is that such an achievement might never be possible. However, the social sciences provide us with enough baseline information to begin crafting a foundation for at least gaining a better understanding of how emotions function, what purpose they have, and what forces act in their favor or to their detriment. This thesis chose to examine emotion as a form of social communicator, one that has its roots in interactions with the world and the people that reside in it. This pursuit, of course, required me to neglect the other potentially valuable theoretical perspectives that might just as easily explain certain emotional phenomenon. For the context of the justice system, however, it seemed fitting to go with a more socially oriented theoretical framework, one that, as Bourdieu (1989) argued, takes into consideration not just the objectiveness of a space, but also the subjective nature of humanity that lives inside of it.

As a result, I attempted to conceptualize the justice system as its own sort of social space using established literature, although potentially incorrectly. I mention this because of the state of the justice system, how it is by most people's accounts a separate entity, and how despite our best efforts to understand all of the micro transgressions that occur within its procedure, we still remain slightly in the dark on many of the issues that plague it. Therefore, simply concluding the nature of the justice system based on the information provided in this thesis might not be beneficial to the entirety of the field, as more research should be conducted to provide further answers and explanations. Still, this thesis highlighted key social components that act parallel to the justice system. It is comprised of people that often import ideas and values into a space that has a set

method of conduction. It is heavily influenced by social outcry and morality. And, as I argued briefly, one of its most important functions is to appeal to the social whole. These conditions can be observed when referencing the courtroom and the construction of laws, but the social nature of justice doesn't stop there. In the last chapter I demonstrated how prisons, despite being isolated zones of segregation, are still socially influenced from inside of its walls and outside.

Regarding emotions, much of the scholars referenced contended that emotionality is indeed a social mitigator, of sorts; different emotions convey different states, and our ability to interpret, understand, and even sympathize with those states is because of our social foundation. As I mentioned before, however, this is only one specific method of viewing emotions, and other theoretical perspectives could prove useful in another form of argument. In the context of the justice system, the literature continued to argue for emotions as an important method of communicating with others on afflictions, and the people within those spaces were able to understand such expressions and use them for various purposes. In the restorative justice domain, emotions were perceived by most of the authors as a way of connecting all parties involved in an effort to reach a unified consensus on a particular issue. In the punitive setting, emotions appeared a bit more variable, and while people still had the ability to interpret those emotions freely, it is noted that the structure and function of the traditional justice pursuit is less accepting of demonstrations that are deemed meritless in the quest for law and order. In the prison setting, literature once again demonstrated how emotions are forms of communication with those inside of the institution. However, there are many constraints listed that controlled for emotional expression

(masculinity, power dynamics, etc.), and while some emotions were regarded with more positivity, others place the individual at risk. This is a sentiment that was also held by corrections officers as well.

Despite the literature that was presented in this thesis, however, it must be noted that as a field we continue to lack in published content regarding emotionality and its role in justice policy and procedure. This served to the detriment of this paper in a few ways. Most of the literature that was used in this thesis came from the psychological or sociological domain. Granted, these both carry heavy implications for criminology and make up the backbone of many theoretical association, but it would've been beneficial to have actual source material that relied on criminological theory surrounding the social nature of emotions. Perhaps that is another problem in itself; no theory really tries to explain the role of emotions, and when they do, it seems to only address how it leads to criminal behavior, not any social implication. Finally, I acknowledge that this thesis was quite broad, choosing to focus on numerous facets of the justice system rather than concretely analyzing one. In the future, it would be wise to seek out a new study that was able to pick apart the basic social components of one section of the system to reveal emotional significance.

Overall, this thesis serves as a building block for future criminological studies on emotions. Whether that block is deemed stable or not is entirely up to the direction that scholars choose to embrace later on. For now, though, the least we can say is that there are social dynamics at play within different locations of the justice system, that emotions are a form of social expression in these areas, and that their existence and

demonstration is influenced by structure, while at the same time they are influencers themselves.

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