

On the necessity of school punishment

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On the necessity of school punishment

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Abstract

The question of the necessity of school punishment was raised, but not satisfactorily answered, in an exchange some time ago between John Wilson and James Marshall. Wilson argued that social interaction in schools must be governed by rules and that rules only exist if violations of them are normally punished. Marshall objected that there are some rules whose existence plainly does not depend on punishment of violations. Here I revisit and try to resolve the disagreement between Wilson and Marshall. I contend that, while it is not true of rules per se that they must be backed by punishment, there is an important subset of rules that do require this backing, and that subset includes at least some of the rules governing social interaction in schools.

Keywords

Etiquette, law, morality, punishment, rules, violations

Is it necessary for schools to punish children when they break rules or fail to meet expected standards of conduct? Are we in some way obliged to impose disadvantage or hardship on misbehaving children, or can we – and should we – avoid such imposition? Are there more just, more effective or less vindictive ways of persuading children to comply with school rules than by punishing infractions?

This question was raised, but not satisfactorily answered, in an exchange some time ago between John Wilson and James Marshall. In his book *Philosophy and Practical Education*, Wilson set out an argument purporting to show that punishment in schools is logically necessary (Wilson, 1977). He argued that schools are sites of social interaction, that social interaction must be governed by rules, and that rules only exist if violations of them are normally punished. In a critique of Wilson's argument, Marshall pointed out that there are some striking counter-examples to the last of these claims: language use is

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indisputably governed by rules, yet violations of linguistic rules are rarely punished (Marshall, 1984). Wilson, in reply, admitted that there may be rules of different logical types and some types may not depend for their existence on punishment of violations (Wilson, 1984). He nevertheless held fast to the view that punishment is an inexpellable feature of school life.

Unfortunately, the debate stopped there, leaving an obvious and important question hanging: are the rules governing social interaction in schools of a type whose existence depends on punishment of violations, or of a type whose existence does not so depend? Neither Wilson nor Marshall gives us much to go on in trying to answer that question. But an answer is plainly needed if we are to reach a defensible verdict on the necessity of school punishment.

In what follows I revisit and try to resolve the disagreement between Wilson and Marshall. I agree with Wilson that punishment of rule violations is a necessary feature of school life, and I think his argument for that conclusion is along the right lines. But, for the reasons given by Marshall, the argument as it stands will not quite do. My contention will be that, while it is not true of rules per se that they must be backed by punishment, there is an important subset of rules that do require this backing, and that subset includes at least some of the rules governing social interaction in schools. Wilson's argument can therefore be reformulated in such a way as to accommodate Marshall's objection.

I should emphasise that my defence of the necessity of school punishment should not be taken as an endorsement of existing disciplinary regimes in schools, still less as a call for stricter or more expansive regimes. It may well be the case that schools currently punish children too often, or too harshly, or for the wrong things, or in the wrong ways. If so, however, the solution will not be to declare war on school punishment itself. It will be to distinguish carefully between rules that need to be backed by punishment and rules that do not, to reflect on the forms of punishment appropriate to different kinds of violation, and to address inconsistency and discrimination in the application of disciplinary measures. A clear understanding of what makes punishment unavoidable is a necessary preliminary to any attempt at reform.

Wilson's argument

Wilson's discussion of punishment in *Philosophy and Practical Education* is to be found in a chapter on authority. He takes there to be tight conceptual connections between authority, rules and punishment, and maintains that these are concepts 'which are bound to have *some* application or instantiation, and which it will be both senseless and unnecessary to challenge, question or justify *in general*' (Wilson, 1977: 48). Here's his argument:

Anything that could seriously be called a 'society' or 'social group' . . . involves some kind of interaction between its members; and 'interaction' here will not mean just that they happen to bump up against each other like physical objects, but that they engage in some rule-following activity . . . There will therefore be rules or norms which are commonly subscribed to, whether or not they are codified, overtly agreed and stated beforehand, or contracted for.

A breach of rules must, at least characteristically if not in every case, be taken to entail the enforcement of some disadvantage on the breaker. If this were not so, we should not be able to identify them as rules prohibiting X and enjoining Y, rather than enjoining X and prohibiting Y: or else we should not be able to identify them as rules at all, as against wishes, pious hopes, generalisations about human behaviour, or descriptions of some other-worldly ideal. A social rule enjoining X exists only if, when people fail to perform X, something which is characteristically a disadvantage is normally enforced on them . . .

[W]hether or not the group gives some of its members particular authority to interpret and enforce the rules and disadvantages, the disadvantages will in every case occur by reason of or in virtue of the rules that constitute and govern the group's interaction. That the group subscribes to these rules, or that the rules are in force, logically entails disadvantages to rule-breakers. (pp. 49–50)

Note, in particular, that Wilson seems at this point to be making a general claim about rules *per se*. Something is only a rule at all if those who break it are liable to punishment. And rules cease to exist the moment we stop enforcing them: 'For instance, if being a nuisance in school or society characteristically results in a person's receiving more attention and care (support from counsellors and welfare service, and so on) rather than some disadvantage, then there is no longer an operative norm or rule against being a nuisance' (p. 53).

Although they do not bear directly on his core argument, Wilson makes a number of supplementary points about punishment, three of which are worth mentioning here.

First, he notes that there is no conceptual connection between punishing people and inflicting pain on them, notwithstanding the frequency with which philosophers suggest otherwise. H.L.A. Hart says of punishment that 'it must involve pain or other consequences normally considered unpleasant' (Hart, 1959: 4); R.S. Peters concurs that 'it is part of the meaning of the term that it must involve pain or unpleasantness' (Peters, 1966: 169). In truth, Wilson counters, 'comparatively few punishments involve pain' (Wilson, 1977: 49). And this seems right. At least in contemporary British society, the most common forms of criminal punishment are imprisonment, bans, fines and community service, and the most common forms of school punishment are exclusions, detentions, time out and loss of privileges. To argue for the necessity of punishment in schools is emphatically *not* to argue for the necessity of corporal punishment in schools, or to endorse the infliction of pain on children.

Second, acknowledgement of the centrality of rule-following activity in human social life, and of the connection between operative rules and punishment of breaches, does not imply insouciance to the dangers of 'unquestioning obedience', 'conformism' and 'authoritarian regimes' (p. 54). To the contrary, a clear understanding of why rules and mechanisms of enforcement are necessary should serve to make us more vigilant against rules and mechanisms that are irrational, unhelpful or unjust. As Wilson puts it, 'Just as it is a conceptual truth that human beings must accept some authority and obey it if they are to get anything done, so it is also conceptually true that questions will inevitably arise about whether particular authorities are legitimate, whether their scope is properly delimited, whether the form and methods by which they operate is as good as we can make it, and so forth' (p. 55). Learning to play by the rules is quite compatible with learning to participate in the processes by which rules are changed.

And third, the configuration of rules and punishments we need in any given context will be determined by the nature of ‘the business we are conducting’ (p. 57). In the context of schooling, for example, it will be determined by the requirements of learning:

If education is to do with the planning of serious and sustained learning, then we have at least a few obvious points to bear in mind. First, authority must be exercised to ensure that such learning can in fact take place, and to encourage it: and by the same token, we do not require authority to go beyond the purposes of learning. Thus, at least *prima facie*, the authority would have power and scope to ensure that the pupils did a minimum of work, turned up on time, did not disrupt the teaching, did not interfere with each other in such a way as to prevent each other from learning, and so on. Equally, it would *not* have the power or scope to dictate, say, the pupils’ dress or hairstyles, unless it could be shown that these directly affected their learning. (pp. 57–58)

Systems of regulation exist to enable us to do business together, to engage in cooperative endeavours, so we should pause from time to time to assess those systems with reference to the aims of the business or endeavour they are supposed to facilitate. While, for Wilson, there can be no question of doing away with rules and punishments in schools, it may be that rather few of the rules and punishments schools currently enforce can plausibly be construed as necessary for the purposes of learning.

Marshall’s critique

Marshall’s critique of Wilson’s discussion of authority is wide-ranging, and several of his criticisms miss their mark. He worries, for example, that a breach of rules cannot be taken to *entail* the enforcement of some disadvantage on the breaker, because it is a familiar fact of life that crimes sometimes go unpunished (Marshall, 1984: 99). But the relation of entailment Wilson asserts is between the concept of a rule breach and the concept of liability to punishment: his claim is that, insofar as we fail to regard non-compliance with a prescription as punishable, we are not thinking of the prescription as a *rule* at all. Marshall worries, too, that Wilson equates ‘discipline’ with ‘blind obedience to authority’ (p. 100). But in fact Wilson defines ‘discipline’ quite explicitly as ‘obedience to established and legitimate authorities as such’ (Wilson, 1977: 39): to be well-disciplined in some context is to be disposed to comply with instructions not because one happens to agree with them, or because one is intimidated or enchanted by the instructor, but because the instructor is an established and legitimate authority. This account of discipline is obviously contestable, and there is much room for disagreement about the contexts in which disciplined conduct is necessary or desirable, but Wilson cannot fairly be accused of advocating blind obedience to authority.

Notwithstanding these misdirected criticisms, however, the crux of Marshall’s reply to Wilson is right on target:

I will argue that even if it is the case that *some* socially sanctioned rules are necessary for the existence of a human community, it is not the case that, in construing human activity as essentially rule-following, all of the rules are, or need be, socially sanctioned; i.e. there is nothing in the concept of a rule, that entails a sanction for its breach. Punishment is *not* the necessary outcome of breaking any rule. (p. 99)

To show that not all rules are socially sanctioned, Marshall turns to the domain of linguistic activity. Here, he suggests, our conduct is certainly rule-governed, but breaches of the rules are rarely seen as punishable. Take the practice of joke-telling:

There are rules for the social art of telling a joke, but what is the sanction for failure to 'crack' a joke successfully or tell a story well? Think of the affection we have for Freddy who cannot tell a joke for peanuts! What is the sanction which operates here? (p. 101)

Perhaps it can be doubted that the familiar conventions of joke-telling qualify as rules. When a joke falls flat or a story is dull, our first thought may not be that the problem lies in a failure to follow rules. But there are plenty of other infelicities in the domain of linguistic activity that are unambiguous cases of rule breaches. Errors of grammar and sense are, quite straightforwardly, infractions of syntactic and semantic rules. Ali G's indignant refrain 'Is it because I is black?' is funny in part because it breaks the syntactic rule of subject-verb agreement; Chomsky's 'Colourless green ideas sleep furiously' defies comprehension because it flouts the semantic rules that govern its constituent terms. And yet, as Marshall rightly insists, the idea that people must be punished for making errors of these kinds is absurd. Here is a large class of rules that patently do not depend for their existence on punishment of violations.

It is a curious feature of Wilson's rejoinder to Marshall that he concedes this fundamental point and yet declines to amend his argument in light of it. It is, he says, interesting to ask 'what different logical types of rules can be distinguished, and which types are conceptually connected with sanctions', and he professes to be in agreement 'with much of what Marshall has to say here' (Wilson, 1984: 106). But there he leaves the matter. He goes on to berate Marshall for the alarmist thought that 'if punishment were seen as logically inevitable, then it might become more prominent and repressive' (p. 106) and to reiterate his conviction that we should 'turn our backs on the pendulum-swings of social fashion' and instead 'concentrate on the *purposes* for which we need all this apparatus' (p. 107). That may be right, but it does nothing to address the hole left in his argument by Marshall's central objection.

Types of rules

To settle the disagreement between Wilson and Marshall on the necessity of school punishment, we shall need to take up the challenge of asking 'what different logical types of rules can be distinguished, and which types are conceptually connected with sanctions'. Only then will we be in a position to say whether the class of punishment-backed rules includes some or all of the rules governing social interaction in schools.

In *The Concept of Law* (Hart, 1994 [1961]), H.L.A. Hart famously distinguishes between primary and secondary rules in the sphere of law. Primary legal rules are *first-order*, in the sense of being directly focused on human conduct: they specify what people governed by the legal system must and must not do. Secondary legal rules are *second-order*, in the sense of being focused on the management of primary rules: as Hart puts it, 'they specify the ways in which the primary rules may be conclusively ascertained, introduced, eliminated, varied, and the fact of their violation conclusively determined' (p. 94).

Hart's thesis is that a clear understanding of 'these two types of rule and the interplay between them' (p. 81) is key to getting a grip on the concept of law.

The distinction between primary and secondary legal rules is not especially helpful for present purposes. But in the course of elaborating it, Hart draws a more basic distinction that sheds a good deal of light on the problem in hand. He offers a general account of what makes something a rule and then distinguishes what he calls 'rules of obligation' from rules of other kinds. For reasons that will become clear, I think it is the concept of rules of obligation, rather than the concept of rules *per se*, that is needed to demonstrate the necessity of punishment in schools.

First, then, Hart's account of what makes something a rule:

What is necessary is that there should be a critical reflective attitude to certain patterns of behaviour as a common standard, and that this should display itself in criticism (including self-criticism), demands for conformity, and in acknowledgements that such criticism and demands are justified, all of which find their characteristic expression in the normative terminology of 'ought', 'must' and 'should', 'right' and 'wrong'. (p. 57)

Rules are norms or standards used by members of a group to guide, assess and criticise their own and each others' conduct. We frequently use the vocabulary of 'ought', 'should', 'right' and 'wrong' to do this guiding, assessing and criticising, though of course there are other ways of reminding ourselves what the rules require and of expressing approval and disapproval of conduct. Hart is at pains to emphasise that accepting the authority of a rule may or may not be accompanied by 'psychological experiences analogous to those of restriction or compulsion' (p. 57): it is necessary to the concept of rules that we use them as action guides, but not that we feel constrained or imprisoned by them, or irresistibly compelled to comply with them. And from the fact that it is in the nature of rules to license assessment and criticism, it does not follow that it is in their nature to license punishment or the imposition of disadvantage.

Note that this general account of rules comfortably accommodates rules in the domain of linguistic activity. While we do not normally feel restricted by syntactic and semantic rules, or by the conventions of joke-telling, and we think it inappropriate to punish people for violating them, we *do* use them to guide our language use and to criticise the language use of others. We laugh at Ali G's deliberate flouting of the subject-verb agreement rule, but we correct our children when they break it inadvertently. We feel affection for Freddy when his jokes fall flat, but we also want to show him how to make them land next time around.

Now let us consider the distinction Hart draws between rules of obligation and rules of other kinds. He begins by noting that, while the vocabulary of 'ought', 'should', 'right' and 'wrong' is at home in any and all rule-talk, the vocabulary of 'obligation' and 'duty' is not:

Rules of etiquette or correct speech are certainly rules: they are more than convergent habits or regularities of behaviour; they are taught and efforts are made to maintain them; they are used in criticizing our own and other people's behaviour in the characteristic normative vocabulary . . . But to use in connection with rules of this kind the words 'obligation' and 'duty' would be

misleading and not merely stylistically odd. It would misdescribe a social situation; for though the line separating rules of obligation from others is at points a vague one, yet the main rationale of the distinction is fairly clear. (p. 86)

Hart's suggestion here is that, while I *ought* to follow the rule of subject-verb agreement in the sentences I utter, and my utterances are *wrong* insofar as I fail to do so, I do not have an *obligation* or *duty* to follow this rule. Talk of obligations and duties is only appropriate in relation to a particular subset of the rules whose authority I recognise; namely, rules of obligation.

The paradigm cases of rules of obligation are primary legal rules and moral rules. I have no obligation to keep my feet off the coffee table, but I do have an obligation to pay my taxes. I have no duty to avoid the adjectival phrase 'colourless green', but I do have a duty to refrain from deceiving people. Primary legal rules and moral rules are, in a significant sense, *weightier* than rules of etiquette and language; it matters more that everyone in the relevant group complies with them.

Hart identifies three distinguishing features of rules of obligation. First, rules belong to this class 'when the general demand for conformity is insistent and the social pressure brought to bear upon those who deviate or threaten to deviate is great' (p. 86). Second, rules of this type 'are thought important because they are believed to be necessary for the maintenance of social life or some highly prized feature of it' (p. 87). And third, the duties imposed on us by rules of obligation frequently conflict with our personal interests and preferences:

... it is generally recognised that the conduct required by these rules may, while benefiting others, conflict with what the person who owes the duty may wish to do. Hence obligations and duties are thought of as characteristically involving sacrifice or renunciation, and the standing possibility of conflict between obligation or duty and interest is, in all societies, among the truisms of both the lawyer and the moralist. (p. 87)

Of these three features, the crucial one is the first: it is part and parcel of a rule of obligation that great social pressure is brought to bear on those who deviate. Under the heading of great social pressure Hart includes 'physical sanctions', 'diffused hostile or critical reaction', and measures that 'depend heavily on the operation of feelings of shame, remorse, and guilt' (p. 86). In other words, rules of obligation are precisely those rules violations of which are characteristically met with punishments of one kind or another.

The second and third features explain why the first is necessary. Rules of obligation are those whose operation ensures either the survival of a social group or the success of its most foundational endeavours. They are the rules we really need people to obey, as opposed to rules that make life a little easier or more congenial, or that facilitate worthwhile but non-essential pursuits. And compliance with rules of obligation is sometimes costly, or inconvenient, or contrary to our desires. We often have perfectly good reasons for wanting to do what such rules prohibit, or for not wanting to do what they require. It is because reliable compliance with rules of obligation both matters very much and often conflicts with immediate self-interest that they need to be backed by great social pressure.

Punishment is necessary in the domains of morality and law, then, because moral rules and primary legal rules are rules of obligation. But what of the rules governing social interaction in schools? Should we understand school rules on the model of morality and law, or on the model of etiquette and language? They are certainly rules, so they certainly license demands for conformity and criticism of violations; but are they weighty enough to qualify as rules of obligation?

School rules

The first thing to say here is that school rules are not all of a piece. There are school rules of various kinds performing various social functions. Some, I suggest, belong straightforwardly in the category of etiquette – and it is hard to see what could justify punishing violations of school rules in this category.

In one of the schools I attended as a child, there was a rule that required all pupils to stand whenever the headteacher entered the room. I do not know how many schools still have this rule: it strikes me now as a quaint relic of a more deferential age. But wherever it is in force, this rule cannot reasonably be classified as anything other than a rule of etiquette. It specifies a way of showing courtesy to an authority figure, and those who violate it may be convicted of bad manners at most. Punishment is the wrong kind of response to breaches of etiquette, just as it is the wrong kind of response to grammatical mistakes.

An enthusiast for the rule might reply that children can be unruly, especially when clustered in groups of 30 in fairly small rooms, and that the only way to ensure prompt compliance with the rule is to threaten punishment for non-compliance. Those things may well be true, but they do nothing to defeat the point that imposing disadvantage or hardship on children for being impolite is disproportionate and unwarranted. The headteacher is not harmed or impeded in the performance of her duties by the failure of some children to stand on her arrival, and non-participation in a symbolic display of deference does not represent a credible threat to legitimate authority. Teachers may issue reminders about the rule, explain the reasons for it, urge pupils to obey it and berate them for disobeying it; but they may not treat a courtesy as a duty and apply sanctions to the discourteous.

The same goes for familiar rules about pupils' dress. Take the rule, common in schools with a uniform policy or dress code, that shirts must be tucked in. Let us grant, for the sake of argument, that smartness is desirable and that tucked-in shirts are smarter than untucked ones. These suppositions may well be sufficient to warrant a rule of etiquette, along with the urging and berating required to uphold it; but they are quite insufficient to warrant a rule of obligation. The problem of untucked shirts is not nearly weighty enough to justify the sort of disciplinary measures that induce 'feelings of shame, remorse, and guilt'.

But not all school rules are rules of etiquette. I want to argue that there are at least two types of school rules that belong squarely in the category of rules of obligation – and that schools cannot do without.

First, some school rules are straightforwardly rules of morality. School prohibitions on acts of violence, theft, abuse and bullying are themselves moral prohibitions. They belong to the class of justified moral standards whose currency in society is necessary to ameliorate what David Copp calls the 'problem of sociality' (Copp, 2009: 22). This is not

the place for a detailed discussion of the nature and justification of morality (for that, see Hand, 2018), but, briefly, human social groups have a standing propensity to outbreaks of conflict and breakdowns in cooperation and, to curb that propensity, the members of those groups must hold themselves and each other to some basic standards of conduct. Among the conflict-averting and cooperation-sustaining standards needed for this purpose are prohibitions on killing and causing harm, stealing and extorting, lying and cheating. Everyone (not just children) has an obligation to comply with the requirements of basic morality and everyone (not just teachers) should be ready to exert social pressure on 'those who deviate or threaten to deviate'.

So punishment of children in schools for violating moral rules is just a special case of the social pressure brought to bear on all members of human social groups for breaches of morality. School communities are no less vulnerable than communities of other kinds to outbreaks of conflict and breakdowns in cooperation, and can afford to be no less stringent in their policing of violence, intimidation and dishonesty. Unlike failures to meet standards of courtesy, failures to meet standards of basic morality pose a threat to the safety of others and the possibility of cooperation. For failures of this kind, disciplinary measures that induce feelings of shame, remorse and guilt are proportionate and warranted.

What makes punishment of moral infractions in schools a special case is that it serves not only as a mechanism of enforcement and deterrence, but also as a method of *moral formation*. That is to say, when teachers punish children for breaches of morality, they are acting not only as moral agents charged with upholding moral standards, but also as pedagogical agents charged with forming children's moral intentions, feelings and habits. To play this pedagogical role, punishments meted out to children in school must differ in certain respects from those meted out to adults in other social contexts. I have drawn attention elsewhere to some of the differences:

In the context of moral formation, the penalties imposed are in some respects less severe and in other respects more severe than those imposed in the course of ordinary moral life. Because children are not yet fully responsible for their actions, and because it would be impractical or developmentally harmful to put them through certain kinds of hardship, we exempt them, as far as possible, from the more serious penalties for moral non-compliance. But because punishments meted out to children have an expressly pedagogical purpose, they often take an exaggerated form. Expressions of disapproval are frequently more pronounced, and more public, when the misdeeds that prompt them are perpetrated by children. (Hand, 2018: 33)

But while these differences are important, and require careful thought on the part of teachers, the questions they raise are about how, not whether, moral violations in schools should be punished. Where school rules are requirements of basic morality, there is no doubt that they qualify as rules of obligation and must therefore be backed by punishment.

Second, there are some school rules that lack the generality of moral rules, and are not needed to avert conflict or sustain cooperation in social groups per se, but that are nevertheless needed to facilitate the particular cooperative endeavour by which schools are defined: the practice of education. Recall Wilson's proposal that 'If education is to do with the planning of serious and sustained learning, then . . . authority must be

exercised to ensure that such learning can in fact take place, and to encourage it: and by the same token, we do not require authority to go beyond the purposes of learning' (Wilson, 1977: 57). As an attempt to delimit the scope of what can be governed by rules in schools, this is too restrictive; but as an attempt to delimit the scope of what can be governed by rules of *obligation* in schools, it is close to the mark. To sustain the practice of education, schools must enforce not only the general moral rules on which all cooperative activity rests but also some specifically scholastic rules without which the activities of teaching and learning would founder.

Why should we classify the rules needed to facilitate education as rules of obligation? The reason is not merely that education is the *raison d'être* of schools: plenty of worthwhile but non-essential pursuits have organisations dedicated to their furtherance. The reason is rather that education is a foundational endeavour for all human societies. We have no option but to prepare the young for adult life, and to do so adequately involves planning and providing programmes of learning for them. As Wilson has it: 'we could not come to resemble anything much like human beings, or rational creatures, unless we had done a good deal of serious and sustained learning, and it is implausible to suppose that such learning could be successfully done if it were left entirely to chance and nature' (p. 13). Education is always a 'highly prized feature' of social life, the success of which matters deeply to us and significantly affects our fortunes – and *that* is why the rules needed to sustain it are properly classified as rules of obligation.

Prominent among these scholastic rules of obligation are those designed to curb disruption to educational activity. They include, most obviously, prohibitions on interrupting or obstructing teachers as they teach, and prohibitions on distracting or disturbing pupils as they learn. In other contexts, of course, interrupting speakers or distracting the occupied is merely discourteous: the rules prohibiting such conduct are just rules of etiquette. But the great importance of education, combined with the strength of the temptation to disrupt it understandably felt by large numbers of children in school, turn the prohibitions on interrupting and distracting into rules of obligation in the context of educational activity. Children in school have a *duty* not to behave in ways that prevent their teachers from teaching or their fellow pupils from learning.

While moral rules of obligation are relatively easy to apply, in the sense that it is usually obvious whether something is an act of violence, theft, abuse or bullying, scholastic rules of obligation allow for rather more interpretive latitude. Is the child who repeatedly puts up her hand with requests to use the bathroom, open a window, fetch her pencil, etc. trying to obstruct teaching? Is the child who punctures a group activity with humorous asides guilty of distracting her fellow pupils? These questions call for fine-grained judgements on the part of the teacher and some judgements are bound to be controversial. Here there is an onus on the teacher to be cautious, circumspect and scrupulously fair in identifying and punishing violations of scholastic rules, but there is also an onus on pupils to recognise the teacher's authority to make these determinations.

I do not suggest that the three types of school rules I have distinguished – rules of etiquette, moral rules and scholastic rules – are the only ones. Perhaps safety rules, like prohibitions on running in corridors or wearing jewellery in sports lessons, represent a fourth type, and there may be others too. My aim has simply been to show that at least some of the rules schools have, and need to have, qualify as rules of obligation.

Conclusion

We are now in a position to reformulate Wilson's argument for the necessity of punishment in schools. Here's the revised argument:

- Human social interaction is governed by rules of various kinds, including rules of obligation. A rule of obligation is one that is necessary to the success of a foundational human endeavour, is often in conflict with immediate self-interest, and is backed by punishment.
- Some, though not all, of the rules governing social interaction in schools are rules of obligation. Among them are moral rules, which are needed to avert conflict and sustain cooperation in any social context, and scholastic rules, which are need to facilitate specifically educational activity.
- Because schools cannot do without moral and scholastic rules of obligation, punishment is a necessary feature of school life.

It might be thought that the kind of necessity established by this revised argument is weaker than the kind Wilson was aiming for. Both versions of the argument purport to show that punishment is entailed by some bare and incontestable facts about the human condition, but Wilson's facts are a little barer than mine. On his view, punishment is necessitated by our being the sort of creatures who live in social groups, wish to interact with each other, and recognise that social interaction must be governed by rules. On my view, these facts must be supplemented with a couple of others: we are also the sort of creatures for whom compliance with certain rules is necessary for the maintenance of social life and sometimes onerous, and who recognise that these rules must have the weight of obligations. I do not for a second think that Wilson would deny these additional facts – indeed, I am sure he tacitly assumes them – but they have to be made explicit for the argument to go through.

If my characterisation of the human condition is less bare than Wilson's, is it also less incontestable? I do not think so. The claim that some of the rules we need are important and demanding is no more susceptible of doubt than the claim that we need rules simpliciter. Just as 'authority' and 'rules' mark concepts 'which are bound to have *some* application or instantiation' (Wilson, 1977: 48), so too do 'obligation' and 'duty'. So the revised argument confers on school punishment just the kind of necessity Wilson is after.

Still, it might be pressed, the revised argument rests on the conceptual point that obligations are backed by punishment, and even if that point holds for our ordinary concept of obligation, we should not allow ourselves to be bullied by ordinary usage. Perhaps we can imagine an alternative concept of obligation that retains two of its distinguishing features (necessary to the success of foundational human endeavours and often in conflict with immediate self-interest) while dropping the third (backed by punishment). Whether punishment is the appropriate response to violations of rules of obligation would then be an open normative question rather than a closed conceptual one.

This alternative concept is fairly unrecognisable as a concept of *obligation*. As Hart notes, the word 'obligation' invokes 'the figure of a bond binding the person obligated', and the threat of punishment is precisely what imposes the constraint: 'the social

pressure appears as a chain binding those who have obligations so that they are not free to do what they want' (Hart, 1994 [1961]: 87). But the point of imagining the alternative is to draw attention to the normative argument embedded in the ordinary concept of obligation and to ask whether it is sound. Are we justified in bringing great social pressure to bear on those who deviate from rules that are necessary for the maintenance of social life and sometimes onerous?

The case for our being so justified rests on one further basic fact about the human condition: commitment to the success of foundational human endeavours does not reliably trump immediate self-interest as a motivator of action. Certainly we are social animals, and certainly we can, with practice, gain a degree of mastery over our motives; but we cannot reasonably aspire to a social order in which everyone freely and consistently subordinates personal want to public need. In Hart's pithy formulation, 'if men are not devils, neither are they angels' (p. 196). Where compliance with socially important rules regularly conflicts with self-interest, we have no choice but to supplement individual responsibility with collective coercion, with great social pressure. This fact about human beings, which I take to be as incontestable as the others we have assumed, is what vindicates the normative inference implicit in the concept of obligation.

If my revised argument for the necessity of school punishment is sound, I think it is practically important in two ways. First, it provides reassurance to teachers worried about the propriety of imposing disadvantage or hardship on misbehaving children. Punishing violations of rules of obligation is not cruel, or vindictive, or an abuse of institutional power: it is required by the nature of the rules themselves. But, second, it shows that not all school rules are punishable. Many of the rules with which teachers encourage pupils to comply are rules of etiquette, designed to make life in schools a little easier or more congenial than it might otherwise be. Encouraging compliance is perfectly in order, but there is nothing in the nature of such rules to warrant punishment of infractions. It may well be an implication of the foregoing argument that schools currently punish children not too little, but too much.

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