

Using Wrongdoers Rightly: Tadros on the Justification of General Deterrence

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Abstract Some philosophers believe that punishing convicted criminals in order to deter other, potential criminals would be morally questionable even if we had good evidence that doing so would achieve its goal, at least to a substantial degree. And they believe this because they believe that doing so would be an instance of “using” convicted criminals in a morally objectionable way. Tadros aims to show that we would indeed be “using” convicted criminals in such cases but that, while “using” others is *ordinarily* morally wrong, there are cases in which it is in fact morally permissible (or even morally required). Moreover, he claims that punishing convicted criminals in order to deter other, potential criminals is an instance of “using” others that is sometimes clearly morally justifiable. My aim is to show how extraordinarily interesting some of Tadros’ arguments are but also why, in my view, they fail to establish the view he claims they support. I also suggest some ways in which Tadros might revise his arguments to support his central claim(s) more effectively.

Keywords Self-defense · Self-defense and punishment · General deterrence

Assume for the sake of argument that consistently punishing convicted criminals in a system of basically just laws has a significant deterrent effect on other individuals within that system who might otherwise resort to criminal activities themselves. Assume, in other words, that what has traditionally been called the goal of *general deterrence* can actually be achieved in such a system, at least to a significant degree. Why might one nonetheless hesitate to embrace that goal as the rationale, or at least as one of the rationalia, of one’s system of criminal laws?

For Victor Tadros, and I very much agree with him here, one reason for hesitating to do so is that, from a certain point of view, doing so can seem deeply problematic, morally, despite the good we are assuming could be achieved by adopting and pursuing that goal (Tadros 2011; page-references in parentheses, following quotations below, are to this book). The problem, of course, is that it would seem that in such a system we would be

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