

**Punishment Reactions to Powerful Suspects: Comparing a “Corrupt” versus a
“Leniency” Approach of Power**

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Abstract: Although the justice system punishes transgressions predominantly when an articulated rationale is provided, there are situations where people judge actors whose guilt is uncertain. In this research, we investigate how observers assign punishments to suspects depending on the suspects’ power (i.e., one’s capacity to control valuable resources and produce intended outcomes). Power, on the one hand, indicates one’s potential to inflict harm and thus increases observer’s perception of a powerful suspect as guilty (the “power corrupts” approach). On the other hand, people see powerholders in more positive terms (cf., Basking in reflected glory) and disregard negative information about them (the “power leniency” approach). If the “power corrupts” approach holds, observers should perceive powerful, as opposed to powerless suspects or suspects whose power is undefined, as more guilty. Moreover they should display punishment motives that are based on utilitarianism with the aim of incapacitating the highly threatening powerful harm-doers and prevent them from future harm. If the “power leniency” approach is true, observers should perceive powerless suspects and suspects whose power is undefined (as opposed to powerful suspects) as more guilty and should display stronger punishment motives (utilitarian, retributive, or restorative) towards those suspects. Further, in line with both approaches, we predict that observers should follow the intuitive retributivism hypothesis and assign more retributive punishments towards suspects with low or undefined power, as compared with high power suspects, with the aim to make them pay for what they did. Besides, we investigate the mediating role of recidivism and guilt likelihood in the relationship between a suspect’s power and an observer’s punishment motives. Finally, we expect that retribution will be generally assigned to a higher extent than utilitarian or restorative motives for sanctioning.

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Research question: Do people assign suspects retributive, utilitarian or restorative punishments depending on the suspects' power?

Study methods: We will conduct a simple experimental design where we will manipulate the power possession of suspects accused of money embezzlement. Guilt likelihood and recidivism of the suspect, and motives for punishment (retributive, utilitarian, restorative) of the observer will be assessed.

Keywords: power; motives for punishment; retribution; utilitarianism; restoration

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Introduction

Problem

It is conventional legal wisdom that a person should not be convicted of a criminal offense that they did not commit. Although the justice system punishes transgressions only if an offender is guilty beyond any reasonable doubt (see Fousiani & Van Prooijen, 2019), there are situations where people judge actors whose guilt is not certain. For instance, Van Prooijen (2006) showed that people experienced stronger negative emotions and were more punitive against suspects whose guilt was uncertain when those suspects were outgroup rather than ingroup members. Numerous social factors may influence punitive reactions to suspected offenders. Most of these social factors are directly connected to the offense, such as severity of the harm done (e.g., Carlsmith, Darley, & Robinson, 2002; Darley, 2002), the group membership of the suspect (Van Prooijen, 2006), or the institutional role of the punisher, such as being the leader or the follower (Wiltermuth & Flynn, 2013). In the present research, we investigate the motives that drive punitive reactions to powerful versus powerless suspects whose guilt is uncertain.

Review of relevant scholarship

Research has identified three distinct kinds of motives for punishment: utilitarian motives (Bentham, 1789), retributive or just deserts motives (Kant, 1797), and restorative or rehabilitation motives (De Beaumont & Tocqueville, 1833; Saleilles, 1898). *Utilitarian* motives for punishment aim to reduce the likelihood of offenses in the future, and thus seek to maximize happiness, and minimize suffering, in society (see Carlsmith & Darley, 2008; Nagin, 1998; Van Prooijen, 2018). The purpose of utilitarian punishments is to control the

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offenders' behaviour by deterring future crimes (i.e., deterrence facet of utilitarianism) or by incapacitating a known liability to society (i.e., incapacitation facet of utilitarianism) (Carlsmith & Darley, 2008). Instead, *retributive/just deserts* punishments rest on the moral philosophy of deontology according to which punishment must be proportionate to the harm inflicted. Retributive punishment's objective is not preventing future offenses per se, but retaliating for perpetrators' past behaviour with the aim to rebalance feelings of justice and fairness (Goldberg, Lerner, & Tetlock., 1999; see also Van Prooijen, 2018). Finally, justice-seeking reactions directed at harm-doers can also involve motives for *restoration* (De Beaumont & Tocqueville, 1833; Saleilles, 1898). Restorative justice emphasizes the need to help harm-doers recognize the harm they have caused, to stimulate an apology to the victim and repair the relationship between the harm-doer and the victim, and to alter the harm-doer's future behaviour by means of adequate treatment (Zehr, 1997). Although restorative motives for punishment could be subsumed by utilitarian motives, we perceive them as qualitatively different given their inclusionary (i.e., help an offender reintegrate to society) rather than exclusionary (i.e., expel an offender from the society) approach towards offenders (Fousiani, Yzerbyt, Kteily, & Demoulin, 2019).

According to the social psychological literature, regardless of any characteristics of the suspect (e.g., power possession), observers display a generalized tendency to assign more retributive and less utilitarian or restorative motives for punishing the harm-doer, commonly referred to as the intuitive retributivism hypothesis. Indeed, people have a stronger intuitive need to punish past transgressions than to punish in order to prevent future harm-doing (Wenzel & Thielmann, 2006; see also Carlsmith, 2008; Carlsmith et al., 2002; Darley & Pittman, 2003). Moreover, they display an intuitive preference for proportionate rather than extreme sanctions, at least in recent survey experiments. We thus expect that overall, rates of

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retributive punishment motives will be higher than rates of utilitarian or restorative motives for sanctioning (*Hypothesis 1*).

While the role of these motives in punitive intentions is well-established, much is yet unknown about the exact role that these motives play in the context of powerful suspects. Power is the ability to provide or withhold valued resources or administer punishments (Fiske, 1993; Kipnis, 1972), and the ability to produce intended effects (see Weber 1946). Accordingly, we see a powerful suspect as one who has access to valuable resources and can plan a course of action. Despite ample research on how lay people view powerful actors who are involved in corrupted or unethical behavior (Abrams, Palmer, Rutland, Cameron, & Van de Vyver, 2014; Hoyt, Price, & Poatsy, 2013; Kellerman, 2004) findings are controversial and conclusions inconsistent. In the present research, we examine people's punitive motives in response to powerful suspects when guilt has not been established with certainty. In the following, we present two contrasting approaches regarding the effects of power on observer's punitive reactions and motives, and we make competing hypotheses based on each approach.

The "power corrupts hypothesis"

People engage in differential interpretations of harmdoers' actions based on their characteristics or background. For instance, people attribute higher intentionality to the actions of high status harmdoers (e.g., one who has prestige, respect, and esteem in the eyes of others; Anderson & Kilduff, 2009) than the identical actions of low status harmdoers, and consequently recommend more severe punishments for the former than the latter (Fragale, Rosen, Xu, & Merideth, 2009). In this study we focus on the effect of power (e.g., one's access to valuable resources, possibility to reward or punish others and produce intended

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outcomes; Fiske, 1993) of a suspect on observer's punitive reactions.¹ Power versus status are related yet distinct, as it is quite well possible to have control over other's resources (i.e., high power) while being held in low prestige (i.e., low status), and vice versa (Fast, Halevy, & Galinsky, 2012). Power provides the benefit of controlling one's own and others' monetary (e.g., salary), social (e.g., inclusion), or physical (e.g., housing) resources (Fiske, 1993; Magee & Galinsky, 2008). People who control the provision of resources are commonly in a position to directly affect the welfare of other individuals (Boles, Croson, & Murnighan, 2000; Gruenfeld, Inesi, Magee, & Galinsky, 2008; Kipnis, 1972; Lammers, Stapel, & Galinsky, 2010; Pitesa & Thau, 2013). Moreover, powerful people are more susceptible to behaviors that they see as unethical, a form of moral hypocrisy (Lammers et al., 2010).

Partly due to their capacity to harm, people often are suspicious of the acts and motives of power holders. For instance, particularly when people feel powerless they are more likely to believe conspiracy theories that make assumptions of how powerful people jointly commit malpractice (Abalakina-Paap, Stephan, Craig, & Gregory, 1999; Van Prooijen, 2018). Therefore, powerless observers may be inherently suspicious of power holders and therefore relatively less willing to give them the benefit of the doubt when accused of unethical behavior. This is the essence of the "power corrupts hypothesis" of punitive reactions in situations where a target person's guilt is yet unproven: People are more likely to believe that a suspect is guilty when the suspect has high power relative to an observer than when the suspect has low power or suspect's power is undefined (*Hypothesis 2*).

Power holder's capacity to harm also has implications for perceivers' punishment motives. Research shows that retributive and utilitarian judgments are not diametric opposites as was till recently thought (e.g., Bartels, 2008; Carney & Mason, 2010) but rather orthogonal

¹Research suggests that power and status can be differentially derived, experienced, and utilized by individuals, and, thus, there are important conceptual differences between them (Blader & Chen, 2012; Fast, Halevy, & Galinsky, 2012).

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and independent constructs (Conway & Gawronski, 2013; Fleischmann, Lammers, Conway, & Galinsky, 2019). Accordingly, one would speculate that observer's punitive reactions towards a powerful suspect should be driven by various motives, including retributive and utilitarian motives. However, prior research reveals that when people experience an offence as highly dangerous or threatening to society they tend to assign strong utilitarian rather than retributive or restorative punishments to the offender (Fousiani et al., 2019). This happens because utilitarian, as opposed to alternative forms of punishment have a protective role to the society (i.e., the offender is excluded from society) and communicate the message that immoralities are not acceptable. In line with this reasoning, and if the "power corrupts hypothesis" were true, we propose that powerful suspects, as opposed to suspects with low or unidentified power, should be punished with stronger utilitarian rather than retributive or restorative punishments. (*Hypothesis 3a*). In contrast, powerless suspects or suspects whose power position is undefined, are much less likely seen as a threat, since they are not associated with either the motive or the means to inflict serious harms (i.e., they do not have access to resources or their access to resources remains uncertain), and their ability to repeat a serious harm in the future is questioned. Hence, incapacitating a low power suspect or a suspect whose power position is unclear and deterring them from future crime should be a less plausible response of observers. Alternatively put, if a low power person or a person whose power position is unknown, did indeed inflict a serious harm, they should get their just deserts and pay for what they did, but people are less concerned about incapacitation of these low threatening suspects as those suspects have less access --or unclear access-- to the means necessary to re-offend. Therefore, observers should follow the pattern of the intuitive retributivism hypothesis and assign more retributive (rather than utilitarian or restorative) punishments towards those suspects, as opposed to powerful suspects, with the aim to make them pay for what they did (*Hypothesis 3b*). Consistent with this reasoning, we hypothesize

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that perceived a) guilt likelihood and b) recidivism of a suspect should mediate the effect of power on observer's punishing motives. More specifically, we hypothesize that in a parallel mediation model a powerful, as opposed to a powerless suspect or a suspect with undefined power, will be seen as higher in guilt and as more prone to re-offend, which will, in turn, predict stronger utilitarian punishment motives (*Hypothesis 3c*).

The "power leniency hypothesis"

Contrary to the "power corrupts hypothesis", in real life there are many cases where powerful offenders are treated by lay observers more leniently as compared to their powerless counterparts. Powerful executives and public figures often face surprisingly few consequences from actions that can cost companies billions of dollars and thousands of employees their jobs. Such punitive leniency towards powerholders is also reflected in the research literature, where various studies find that people are more willing to accept transgressions from power holders (e.g., Abrams, Randsley de Moura, Marques, & Hutchison, 2008; Abrams, Travaglino, Marques, Pinto, & Levine, 2018). One explanation for the powerful offender leniency effect could be that people associate themselves more strongly with powerful or successful group members, perceive them as more similar to themselves and therefore overlook or justify negative behaviors they perform (cf. Basking in reflected glory; Cialdini, Borden, & Thorne, 1976). Indeed, in line with the liking-leniency hypothesis (Davis, Bray, & Holt, 1977), a likable defendant receives more lenient treatment from jurors than one who is disliked (see also Byrne, 1971; Byrne, Clore, & Smeaton, 1986; Kerr, Hymes, Anderson, & Weathers, 1995; Smeaton, Byrne, & Murnen, 1989). An alternative explanation is that because powerless people are highly dependent on powerful others and see them as a means to gain access to valuable resources (Emerson, 1962; Fiske, 1993; Kipnis, 1972; Thibaut & Kelley, 1959) they instrumentally treat them more leniently than they treat powerless others.

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Consequently, people sometimes make excuses for the powerful, try to overlook transgressions that powerful offenders have enacted, or at least see them as less immoral than they actually are. These insights are in line with the “power leniency hypothesis”: People are less likely to believe or admit that a high power suspect (as compared with a low power suspect or a suspect whose power position is undefined) is guilty (*Hypothesis 2_{alt}*). In line with this reasoning, one would expect that observers would be less motivated to punish, control, or correct the behavior of powerful suspects (vs. powerless suspects or suspects with undefined power position) and would be therefore less inclined to assign any kind of punishments (utilitarian, retributive, or restorative) towards them (*Hypothesis 3_{alt}*). In contrast, we hypothesize that motives for punishment should be in line with the intuitive retributivism hypothesis --that retributive motives are more potent in driving punishment than utilitarian or restorative motives-- when suspects are low in power or when their power position is unclear (*Hypothesis 3_b*). Finally, we hypothesize that guilt likelihood of a suspect will mediate the effect of power on punishment motives. More specifically, a suspect’s low or undefined (vs. high) power should lead to stronger guilt likelihood, which will in turn, lead to stronger retributive punishment motives (*Hypothesis 4*).

All in all, depending on whether the “power corrupts” or “power leniency” approach holds, powerful suspects will be mostly assigned with either utilitarian or restorative punishments respectively. In sharp contrast, powerless suspects, but also suspects whose power stance is unclear, regardless of the approach, will be always particularly assigned punishments that are proportionate to the inflicted harm (i.e., retributive). After all, observers would see those suspects less as a threat --since they lack access to valuable resources or their access to resources is not clear—and thus would be less inclined to treat them harshly.

In this study, we examined the effect of power (high vs. low vs. undefined) of a suspect on observers’ (1) guilt likelihood, and (2) motives for punishment in a simple

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experimental design. The mediating role of guilt likelihood and recidivism of a suspect is also investigated. The offense that we used in this study was money embezzlement from an organization.

Materials and Methods

Sampling Plan / Data collection / Data acquisition

A total of X British participants (X females and X males) living in the United Kingdom will take part in this study. All participants will be adults ($M_{age} = XX$, $SD = XX$) and their mother language will be English. No other exclusion criteria will be applied. In a series of previous studies (Fousiani & Van Prooijen, submitted; Van Prooijen, Coffeng, & Vermeer, 2014) we found an average effect size of $\eta^2 = 0.07$ ($f = .27$) for the effect of power on punitive responses. These previous studies were not in a context where guilt was uncertain, however, and therefore we take a slightly lower effect size (a medium effect size, $f = .25$) as a benchmark for determining sample size in the current project.

For Hypothesis 1, an a priori power analysis with G*power, based on an Analysis of Variance (ANOVA) with repeated measures within factors revealed that 44 participants are required to achieve 95% power to detect a medium effect size ($f = .25$). For Hypothesis 2 a and its alternative, an a-priori power analysis based on a one-way Analysis of Variance (ANOVA) test, revealed that using our design, 252 participants are required to achieve 95% power to detect a medium effect size ($f = .25$). For Hypotheses 3a and 3b, an analysis based on an Anova with repeated measures and a mixed design, revealed that 54 participants are required to achieve 95% power to detect a medium effect size ($f = .25$). For Hypothesis 3c (a multiple mediator model) a power analysis based on Monte Carlo simulation showed that 100 participants are required to achieve .80 power to detect significant mediation (see Ma & Zeng, 2014). Finally, for Hypothesis 4 (a single mediator model) a Monte Carlo based power analysis showed that 100 participants are required to achieve .90 power to detect significant

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mediation (see Zhang, 2014). In previous online experiments (see Fousiani et al., 2019; Fousiani & Van Prooijen, 2019) we detected an attrition rate of 8-10%. Based on the power analyses and the participants' dropout rate, we aim for 300 participants in total. The study will be programmed on Qualtrics and participants will be recruited via Prolific academic and will be paid £ 1.00 (€1.14) for their participation.

Conditions and design

Manipulations

We manipulate the suspect's social power (high vs. low vs. undefined power) in vignettes. Participants read a scenario (in English) that presents the main character (i.e., suspect) as a powerful manager (high power) versus a powerless bookkeeper (low power) working at a large governmental organization. Detailed information about the main character's possession of power is included in the instructions (see Appendix I). In the undefined power condition participants read that the suspect works at the same organization but his role is undefined. Participants read that the main character has been accused of having embezzled large sums of money from that organization which he has transferred to private accounts. Following Van Prooijen's (2006) manipulation of guilt probability, we inform participants that the strength of the evidence about the suspect's guilt is mixed. In other words, the evidence about the suspect's guilt is suggestive but not fully conclusive. Therefore, it is currently not entirely certain whether the suspect is innocent or guilty of having embezzled money from the governmental organization. As a manipulation check for social power, we ask participants to indicate the job role of the suspect as either a "manager," an "employee", or "unknown/unidentified". Moreover, participants answer a guilt probability item: "What does the evidence say about his guilt?" certainly innocent / mixed evidence / certainly guilty (see Van Prooijen, 2006; Appendix I).

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Participants will be randomly assigned to one of the three experimental conditions. The study is anonymous, and participation is voluntary. Participants will be thanked and debriefed after filling in the questionnaire. Consistent with the code of ethics, this project was approved by the Ethical Committee of Psychology of the University of Groningen, the Netherlands.

Measures

Guilt likelihood. We will measure guilt likelihood of the suspect with two items: “How likely do you think it is that Harry Smith is factually guilty of money embezzlement?” and “How confident are you that Harry actually embezzled the money?” (1 = not at all, 7 = very much). We will average the two items into a guilt likelihood scale.

Recidivism. We will measure a suspect’s recidivism with three items: “How likely do you think it is that”...1) “...Harry Smith will embezzle money in the future”; 2) “...Harry Smith will do a similar offense in the future?”; 3) “...Harry Smith will re-offend?” (1 = not at all, 7 = very much). We will average the three items into a recidivism scale.

Motives for punishment. We will use the 16-item motives for punishment scale (Fousiani & Demoulin, 2020; Fousiani & Van Prooijen, 2019; Fousiani, Yzerbyt, Kteily, & Demoulin, 2019) to assess the various motives for punishment, including (a) utilitarian motives and its sub-dimensions (private deterrence, public deterrence, and incapacitation²), (b) retributive motives, and (c) restorative motives for punishment (1 = absolutely disagree, 7 = absolutely agree). This is a well established scale with high internal consistency (in Fousiani et al., 2019, Cronbach’s alpha was .85, .89, and .71 for retributive, utilitarian, and restorative

² The literature distinguishes between deterrent private, deterrent public, and incapacitative motives for punishment. All these motives aim at controlling harm-doer’s future behavior and are therefore included under the umbrella of utilitarian motives for punishment (see Carlsmith & Darley, 2008). In line with prior research (Fousiani & Demoulin, 2019; Fousiani & Van Prooijen, 2019; Fousiani et al., 2019) we did not refer to each of those dimensions separately; Instead, we calculated a general mean, indicating utilitarian motives for punishment.

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motives, respectively).

We will average utilitarian, retributive, and restorative items into a utilitarian, retributive and restorative motives for punishment subscale respectively (see Appendix II for the complete scales).

Analysis plan

We will first test whether our manipulation worked as intended. Participants who failed either the social power or guilt probability manipulation check will be excluded from further statistical analysis.

Hypothesis testing

To test Hypothesis 1, we will perform an ANOVA with repeated measures on the three motives for punishment scales. Utilitarian, retributive, and restorative motives scales will serve as the within-subjects factor. This way we can test for the mean difference between the three types of punishment motives. Hypothesis 1 will be supported if the mean for retributive motives for punishment is higher compared to the mean for utilitarian or restorative punishment.

To test Hypotheses 2a versus Hypothesis 2a_{alt} we will submit our data to a univariate ANOVA with power (high, low, undefined) as the independent variable and guilt likelihood as the dependent variable. Hypothesis 2a would be supported if participants reported a stronger guilt likelihood when the suspect is high as opposed to low in power or has undefined power. Hypothesis 2a_{alt} would be supported if observers reported decreased guilt likelihood in the high as opposed to low or undefined power condition.

To test Hypothesis 3a and 3b, we will perform a 3 (motives for punishment: retributive, utilitarian, restorative) by 3 (power of the suspect: high, low, undefined) mixed

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ANOVA, with motives for punishment varying within participants and power between them. Hypothesis 3a will be supported if observers assign higher utilitarian and lower retributive or restorative punishments to powerful suspects as opposed to suspects with low or undefined power. Hypothesis 3b will be supported if observers display stronger retributive and lower utilitarian or restorative motives for punishing a suspect with low or undefined power as opposed to a powerful suspect. To test Hypothesis 3_{alt}, we will perform a 3 (motives for punishment: retributive, utilitarian, restorative) by 3 (power of the suspect: high, low, undefined) ANOVA, with power as the independent variable and motives for punishments as dependent variables. Hypothesis 3_{alt} will be supported if observers assign higher restorative, retributive or utilitarian punishments to powerless (as opposed to powerful or undefined) suspects.

We will test Hypothesis 3c, via a parallel mediation analysis with Process (Hayes, 2013). This approach allows estimating multiple mediators simultaneously. Power of the suspect will be the independent variable, guilt likelihood and recidivism will be the mediators and utilitarian motives for punishment will be the dependent variable. Hypothesis 3c will be supported if guilt likelihood and recidivism of the suspect mediate the relationship between a suspect's high power and an observer's utilitarian motives for punishment.

Finally, we will test Hypothesis 4 via a path analysis using the R Lavaan package (Rosseel, 2012). This approach allows estimating mediation effects with multiple dependent variables simultaneously. Power of the suspect will be the independent variable, guilt likelihood will be the mediator and utilitarian, retributive and restorative motives for punishment will be the dependent variables. Hypothesis 4 will be supported if guilt likelihood of the suspect mediates the relationship between a suspect's high power and an observer's motives for punishment.

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Further exploratory analyses

Finally, we will perform additional exploratory analyses comparing the strength of correlations (using Fisher's r-to-z-tests) to test whether utilitarian motives for punishing powerful suspects correlate more strongly (than retributive or restorative motives) with recidivism and guilt likelihood of powerful suspects, and whether restorative or retributive motives for punishing powerful suspects correlate less strongly (than utilitarian) with recidivism and guilt of powerful suspects (power corrupts approach). Likewise, we will perform correlational analyses to test whether utilitarian, retributive or restorative motives for punishment correlate with guilt likelihood of powerless suspects (power leniency approach).

Furthermore, we will perform similar exploratory analyses to test whether utilitarian motives for punishment correlate more strongly with recidivism and guilt likelihood of powerful, as compared with powerless or undefined suspects (power corrupts approach). Then, we will examine whether utilitarian, retributive and restorative motives correlate more strongly with guilt likelihood of powerless and undefined, as compared with powerful suspects (power leniency approach).

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