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From Liberty to Belonging: Rethinking the Pain of Punishment

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Abstract

This article offers a critical examination of penal pain in the context of carceral punishment. It draws upon empirical insights from criminology and social psychology to challenge the prevailing assumption that the deprivation of liberty constitutes the primary source of suffering in imprisonment. Instead, it argues that much of the suffering associated with incarceration arises from systematic threats to the human need to belong. On this basis, the article positions belonging not merely as a core human need but as a fundamental right that warrants meaningful protection within custodial settings. It further contends that recognizing the centrality of belonging in the penal context can inform sentencing practices and recalibrate the standards of "humane" imprisonment to better safeguard the social needs of system-impacted individuals. Ultimately, the article advances belonging as an additional conceptual framework for bridging the gap between theoretical models of punishment and the lived realities of incarceration, particularly in light of the criminal justice system's professed commitment to upholding the dignity of those subject to its authority.

Keywords Punishment · Prison · Social pain · Belonging · Lived experience

This article presents a condensed account of arguments developed more comprehensively in my forthcoming monograph, "The Real Pain of Punishment: Prison, Belonging, and the Quest for Humanized Justice" (Cambridge University Press, 2026, in press).

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1 Introduction: Penal Pain in Theory

Contemporary philosophical inquiries on punishment emphasize the intrinsic connection between punitive measures and the deliberate infliction of pain. In 1959, H.L.A. Hart defined punishment as involving "pain or other consequences normally considered unpleasant," imposed to reproach a legitimately convicted person (Hart, 1959). Following this definition, modern philosophical discourse typically conceptualizes punishment through terms such as state-imposed "hard treatment," something "painful or burdensome," the "intentional deprivation of normally recognized rights by official institutions," and "ongoing hardship" (cf. Adler, 1992).

A close analysis of these accounts reveals that the pain of punishment is rarely defined in substantive terms (see also Poama, 2015) and is typically distilled into two interrelated components: the source of penal pain and the function that this pain is intended to serve. First, penal pain is understood to arise from the deprivations, burdens, or forms of hard treatment that the state is deemed legitimately entitled to impose on individuals who commit crimes. These typically involve the restriction or withdrawal of rights—such as liberty, privacy, and property—as well as certain civic privileges (see, e.g., Hoskins and Duff, 2024). The curtailment of rights reflects the idea that criminal acts inherently violate the rights of others and, consequently, that the pain inflicted by punishment is proportionate to the harm caused by the offense (Bedau and Kelly, 2015). It further implies that individuals who commit crimes position themselves beyond the circle of those entitled to full consideration as subjects of the polity, thereby forfeiting their own rights against hard treatment (Wellman, 2017) and their claim to equal treatment as members of society.

Much discussion in penal theory has centered on whether penal hard treatment must be imposed *with the intent* to cause suffering. For some, punishment is "intended to be bad for the wrongdoer" (Hanna, 2022: 655; see also Boonin 2008). On this view, the intent to harm holds motivational significance: it is a reason why punishment is carried out. This does not mean that punishment must necessarily result in actual harm; rather, it must be intended to do so. Accordingly, obligations that are painful or burdensome do not qualify as punishment unless they are intended to cause suffering. For others (see, e.g., Wringe 2013), while punishment involves the deliberate (i.e., non-accidental) imposition of burdens, it does not require an intention to cause suffering. Instead, its intentionality lies in its expressive function—namely, in conveying moral disapproval for the wrong committed, directed toward the wrongdoer, society, or both (see, e.g., Bennett, 2006; Tasioulas, 2006). On this account, the burdens or hardships imposed serve as a vehicle for communicating censure (von Hirsch, 2017), rather than as a means of intentionally inflicting pain.

Another prong of the discussion concerns the *experiential* dimension of penal pain. According to some scholars (e.g., Gray, 2010), the deprivations imposed through punishment lack a subjective or experiential component; instead, they are understood as objectively identifiable burdens placed on convicted individuals, regardless of how they are personally perceived. By contrast, other theorists argue that, for censure to be effective, the wrongdoer must experience the hard treatment as painful or burdensome (e.g., Duff, 2001). If the person is not pained by the treatment, then punishment fails to achieve its expressive purpose. In this sense, the experience of penal

pain plays a communicative role: its perception embodies the state's disapproval and conveys the moral gravity of the wrongdoing.

Duff (e.g.,2001) famously argues that censure through hard treatment is intended to establish a moral dialogue with the perpetrator. By imposing hardship, the state ideally offers the individual an opportunity to recognize the wrongfulness of their conduct by confronting its consequences for both the victim and society. This recognition may lead to repentance, reform, and reparation—the "three Rs" of punishment—which are inherently painful processes. Central to this model is the specific kind of pain that censure seeks to produce. If punishment is to be justified, it must aim not merely to cause pain but to induce the *appropriate kind* of pain that is intrinsic to accepting moral criticism from one's community, and more importantly, to recognizing that one has wronged another. For Duff, this is the pain of *remorse*, coupled with the burden of making moral reparation for criminal wrongdoing.

Building on Duff's account, Brady (2020) argues that when suffering is properly structured and intentionally imposed, it imbues punishment with moral and emotional force, expressing both the state's disapproval and its commitment to the values violated by the criminal act. In his view, hard treatment functions as the institutional analogue of personal emotional expression—it is how the state "feels" when responding to wrongdoing. Accordingly, suffering is not an unfortunate byproduct of punishment but an intrinsically appropriate and morally justified response to crime. Its absence, Brady contends, would erode the moral meaning of punishment and weaken its communicative and reformative functions. As with Duff, Brady characterizes penal pain primarily as emotional suffering, encompassing the experience of moral emotions that he sees as essential to acknowledging harm and enabling personal transformation.

This "emotionalist" perspective is among the few that foreground the experiential dimension of penal pain through a normative lens (but see, e.g., Fingarette, 1977). As noted above, the substance of penal pain is undertheorized in standard definitions. While punishment is generally understood to involve hardship, deprivation, or burdens considered painful or unpleasant, the precise nature of this painfulness remains underdefined. More importantly, it is debatable whether the pain of punishment can—or should—be defined solely in normative terms, without adequate attention to the lived realities of punishment as it is administered and experienced across diverse institutional contexts, most prominently within the prison system.

2 From Penal Pain to Prison Pain

Imprisonment represents an extreme form of state-imposed hard treatment, with the deprivation of liberty generally regarded as its defining feature. Within this framework, the pain associated with the loss of liberty is understood as an inherent and legitimate aspect of incarceration. Carceral suffering is thus considered inevitable and tolerable, provided that its duration is proportionate to the seriousness of the offense and that conditions remain within established thresholds of humanity (Kleinig, 1998).

Contrary to this prevailing normative narrative, an expanding body of scholarship has argued that conceptualizing prison pain solely as the deprivation of liberty offers

an insufficient account of the severity and complexity of incarceration (e.g., Garland, 2011; Kerr, 2019; Hanan, 2020). Highlighting this shortfall, Lisa Kerr (2019) notes that legal and philosophical discussions often treat punishment as a uniform mechanism, thereby neglecting the deeply unequal and frequently violent conditions in which it is imposed. While such omissions may not pose a problem within disciplinary debates, they become consequential when legal actors rely on theoretical frameworks to evaluate the severity and humanity of prison sentences (Kerr, 2019: 87, 93; Dagan and Baron, 2025). In such contexts, theoretical abstractions are effectively treated as though they directly map onto the realities of incarceration, despite their limited capacity to capture the conditions under which this punishment is experienced. Of course, neither theorists nor practitioners are entirely unaware of these conditions (see, e.g., Tombs and Jagger, 2006; Dagan and Baron, 2025), and few would openly endorse suffering that extends beyond the deprivation of liberty. Yet, despite this awareness, dominant frameworks tend to overlook the lived realities of imprisonment in both normative theory and legal analysis.

The relative neglect of prison experience as an object of critical inquiry in penal theory and practice is reflected primarily in what Kerr (2019) terms the "*separability presumption*," which draws a subtle but significant distinction between the imposition and the infliction of punishment (see Dubber, 1996), with both theory and practice focusing on normatively justifying the former while marginalizing the justification for the latter. Moreover, this neglect is also rooted in what Kerr calls the "*duration focus*," that is, the established practice of assessing prison severity in terms of length, with little attention to the lived quality of time behind bars—thereby overlooking the widely varying and often harmful realities of incarceration (cf. Kolber, 2009; Garland, 2011; van Ginneken and Hayes, 2017; Manikis and Matheson, 2024).

Another factor behind the limited attention paid to real-life prison experience is the *decontextualization* of those who are incarcerated. This factor reflects the enduring tension between criminal justice and social injustice—most notably the disproportionate impact of the penal system, and imprisonment in particular, on marginalized and disadvantaged groups (see, e.g., Carvalho and Chamberlen, 2024: 48–79). Although this reality is well established and extensively documented, it rarely serves as a starting point for critical engagement with the meaning of punishment in the context of incarceration—especially when reconsidering its normative justifications in light of its real-world targets (but see Lippke, 2007). To be sure, social injustice is widely recognized as an obstacle to an ideal system of punishment (e.g., Duff, 2003), and there exist mechanisms—however limited—to acknowledge certain forms of social disadvantage in sentencing. Yet despite such recognition, prevailing punishment discourse remains largely individualistic, portraying the convicted person as an isolated, self-determining agent abstracted from their developmental, social, and historical context (see Coppola, 2021). As a result, punishment and its justifications tend to be grounded in a narrow focus on the individual—who is to be made to suffer, censured, neutralized, or reformed—rather than situated within the broader social and structural conditions, such as poverty, institutional neglect, or health inequality, that so often underpin criminal offending (see, e.g., Ristroph, 2006a; Carlen,

2013).[1] From another perspective, this individualism is also evident in the disregard for the broader circle of indirect victims of incarceration, including the kin and social networks of the incarcerated person (e.g., Condry and Minson, 2021). Such neglect reflects an image of the perpetrator as an atomized subject—detached from context, stripped of social identity, and reduced to individual attributes such as guilt or dangerousness. By contrast, the effects of incarceration on families and communities remain largely absent from dominant legal discourse and fall outside the scope of prevailing justificatory penal frameworks.

While these factors contribute to overlooking the realities of incarceration in legal and normative discourse, they also foster a broader disregard for the actual pains of imprisonment (cf. Garland, 2011). Arguably, one reason for such disregard lies in the assumption that punishment must consist of burdens *deliberately* imposed by the state in pursuit of recognized penal aims. On this view, additional harms—however foreseeable—that individuals routinely endure in prison fall outside the normative scope of imprisonment as a sentence and its penological justifications—even if such harms are, in fact, intrinsic to what imprisonment entails (see also Kolber, 2012). This distinction is clearly illustrated in Eighth Amendment doctrine, which rests on a historically narrow conception of what constitutes "punishment" under the clause—namely, penalties that are intentionally imposed and formally administered by the state (see also Ristroph, 2006b). Under this framework, conditions of confinement qualify as cruel and unusual punishment only when they entail a "wanton and unnecessary infliction of pain" through the deprivation of basic human needs—such as food, water, or shelter—and are inflicted either *intentionally or with deliberate indifference* by state officials (see, e.g., Coppola, 2019). As a result, harmful conditions not expressly intended or known—whether arising from institutional negligence or the structural dynamics of prisons—are treated as a "part of the penalty" (e.g., Rhodes v. Chapman 1981: 834) that individuals must bear as the cost of their offenses against society. In this framing, such harms fall outside the protection of the Eighth Amendment and are dismissed as merely part of the "routine discomfort of incarceration" (Harden-Bey v. Rutter 2008: 795). Consequently, prison claims largely fail when the required subjective element is not sufficiently demonstrated—even in the face of serious and ongoing harm—rendering the lived realities of incarceration normatively invisible (see also Dolovich, 2009).

To a certain extent, this invisibility exists even when unintended harms are considered in assessing the legitimacy of prison conditions. Consider, for example, the Article 3 ECHR jurisprudence of the European Court of Human Rights (ECtHR). While the ECtHR does not require institutional intent to find a violation, it maintains a distinction between the "inevitable level of suffering inherent in detention" (e.g., Willcox and Hurford v. the United Kingdom 2013, § 76) and the avoidable suffering caused by ill treatment or poor conditions—only the latter constituting a breach of Article 3. In drawing this line, the ECtHR relies primarily on objective factors (e.g., overcrowding, lack of medical care, prolonged isolation), and less fre-

[1] It should be noted, however, the growing shift in retributivist scholarship toward the normative recognition of state-created injustices that often underlie criminal behavior. Among the most recent contributions see, e.g., Manikis (2022); Roberts and Zaibert (2024).

quently engages with how structural prison conditions impact those incarcerated. This approach, coupled with the underlying idea that "a certain degree of suffering is a 'normal' aspect of imprisonment," raises the concern "that aspects of imprisonment may be unduly immunised from scrutiny" (Mavronicola, 2021: 118). Moreover, as some scholars have noted (see, e.g., Liebling, 2011; Vannier, 2025), the Court's interpretive approach rests on abstract or formalist interpretations of core concepts such as "dignity," "humanity," "hope," and "degradation," without grounding them in the lived realities of prison life. Yet attending to how prison is experienced can meaningfully shape whether conditions are perceived as degrading or bearable, enabling interpretations that are more attuned to the social and institutional dynamics of carceral settings. Prison, after all, "is not just something that is done—it is something that is done *to* people and experienced *by* people" (Sexton, 2015: 115). The remainder of this paper is therefore devoted to examining the actual pain(s) of this punishment.

3 From Liberty to Belonging: Social Pain and the Carceral Experience

The pains of imprisonment have been the subject of growing empirical attention in criminological research (see Haggerty and Bucerius, 2020). Beginning with Sykes's seminal work (1958), a vast body of studies across jurisdictions and populations has uncovered deeper and often-overlooked dimensions of prison pains, documenting both overt and subtle harms endemic to the practice and experience of incarceration—many of which endure well beyond release. Collectively, this research suggests that understanding prison pains requires a contextual approach (Haney, 2005), one that situates suffering within the institutional dynamics of the prison environment and considers preexisting factors such as histories of social and personal trauma, race, gender, and age. In this light, prison pain is not merely the product of state-imposed deprivation; it emerges from the complex and often harmful dynamics of carceral institutions (see Rubin, 2019).

Various frameworks have been proposed to classify key domains of prison pain and their differentiated effects across individuals and institutional settings. Some focus on macro-level factors such as social isolation (Ugelvik et al., 2022), the stigma associated with criminal status (e.g., Howell et al., 2022), the loss of civic standing—often described as social or civil death (e.g., Travis, 2002)—and epistemic marginalization (Leder, 2018). Other frameworks address micro-level aspects inherent to prison life, including daily routines, architectural design, institutional regimes, access to healthcare, and staff–prisoner relationships.

To analyze the latter aspects, some scholars adopt a *deprivation model*, emphasizing how the core deprivations of prison life—such as the loss of agency, autonomy, meaningful social relationships, and lived time—not only shape the quality of the prison experience but also underpin its inherent suffering (e.g., Fleury-Steiner and Longazel, 2013). Others (e.g., Turner et al., 2022; Cloud et al., 2023) take a *spatial-temporal approach*, drawing on concepts such as *carceral geography* and *atmosphere* to examine how prison environments affect both bodily and mental well-being, often generating dynamics of dehumanization and depersonalization.

By contrast, scholars such as Liebling (2011) draw on a *relational model* that emphasizes the moral and interpersonal dimensions—or "moral performance"—of prison life, focusing in particular on the quality of staff–prisoner interactions in shaping the humanity of carceral conditions. This approach foregrounds values such as respect, dignity, safety, recognition, and well-being, all of which influence incarcerated people's perceptions of fairness and their broader psychological experience. Crewe (2011), instead, proposes a *dimensional model* for assessing the pains of imprisonment across different prison regimes, using descriptors such as *depth*, *tightness*, *breadth*, and *weight* to capture their varying effects. *Depth* refers to social disconnection; *weight*, to the psychological burden imposed by regimes and staff control; *tightness*, to the experience of constant surveillance and the pressure to self-regulate; and *breadth*, to the extent punishment pervades all areas of life, leaving stigma and psychological traces long after release. Consistent with other models, Crewe's framework confirms that prison becomes psychologically harmful when it restricts agency and severs individuals from the non-penal world.

A key insight from these accounts is that prison pains cannot be reduced to the discomfort of losing liberty. Rather, they are multifaceted and cumulative, resulting in varied forms of suffering produced within a socio-institutional context marked by exclusion, power asymmetry, and control. As this extensive body of research suggests, factors such as social isolation, lack of recognition, disrespectful treatment, neglect, hostility, procedural unfairness, and dehumanizing environments contribute to heightened psychological distress. This distress may manifest through feelings of loneliness, fear, anger, anxiety, low self-esteem, and emptiness (see also Toch, 1977). Over time, these harms can erode a person's social identity and sense of agency, fostering mechanisms of "prisonization"—the internalization of a prisoner identity—and triggering or exacerbating trauma responses and major mental health conditions such as depression. For many, this distress also takes physical form through self-harming behaviors such as self-injury (e.g., Chamberlen, 2018) or suicide (e.g., Liebling et al., 2005). These harms are especially pronounced among individuals serving indefinite or long-term sentences (e.g., Liebling, 2011; Hulley et al., 2016), or those confined in extremely harsh regimes, such as solitary confinement. Such conditions amplify the damaging effects of prison by generating a deeper sense of hopelessness, meaninglessness, abandonment, and powerlessness—often accompanied by profound experiences of dehumanization.

Altogether, the literature examining both macro- and micro-level factors shaping the prison experience consistently indicates that the pains of imprisonment often stem from the deprivation or restriction of key social needs—such as emotional support, meaningful and respectful interactions, empathy, care, and exposure to humane environments. These elements are vital to maintaining a person's sense of identity and integrity, reflecting the inherently social nature of human beings. Their denial points directly to the *fundamental human need to belong*.

Psychological research has long affirmed that the "need to belong" is one of the most basic human drives—on par with the need for food, water, and physical safety. According to Baumeister and Leary's (1995) "belongingness hypothesis," individuals are inherently motivated to form and sustain lasting, positive, and meaningful interpersonal relationships (see also Allen, 2021). From this embeddedness emerge

critical psychological needs, including the preservation of social identity, the maintenance of autonomy, and the sustaining of agency. These are not peripheral aspects of personhood; they are central to the experience of self. Framed in this way, belonging and social connection are essential to human flourishing because they enable individuals to sustain a sense of self-worth. Importantly, as Baumeister and Leary put it, "relationships characterized by strong feelings of attachment, intimacy, or commitment but lacking regular contact will.. fail to satisfy the need [to belong]" (1995: 500).

The fundamental need to belong is closely linked to the nature of the human brain as a social organ (see Lieberman, 2013). As inherently social beings, humans are neurobiologically programmed to seek positive connection and to thrive in supportive social environments. The human brain evolved to navigate complex social landscapes and to engage in sophisticated forms of social cognition. Accordingly, social connection and healthy relational contexts are essential for both brain function and psychological well-being. By contrast, disruptions to these conditions—particularly when sustained and imposed—can result in profound and lasting distress, with serious implications for an individual's psychological and neurobiological integrity.

In the social psychology literature, this form of distress is referred to as *social pain*. Social pain is typically defined as the painful emotional response to experiences of social exclusion, including isolation, rejection, ostracism, or other social threats (e.g., MacDonald & Leary, 2005). From an evolutionary perspective, social pain is thought to originate in the prolonged period of maternal attachment necessary for mammalian survival (Eisenberger, 2013). It has been proposed that the social attachment system co-opted the physical pain system—"piggybacking" on its neurological pathways—to signal threats to social bonds. In this way, social pain can be understood as an adaptive mechanism evolved to protect against the dangers of social exclusion (Eisenberger, 2013).

When prolonged or chronic, social pain is associated with serious emotional and cognitive consequences, including diminished self-worth, low self-esteem, anxiety, helplessness, loss of agency, and a reduced sense of meaning in life (e.g., Leary, 1990, 2015). Research has also linked social pain to an increased risk of physical illness and even mortality (Eisenberger, 2012). In addition, social pain is associated with problematic interpersonal behaviors, such as aggression (Chester et al., 2014), and with a range of psychological disturbances and major disorders, including depression (e.g., Williams, 2007; Cacioppo et al., 2015). Importantly, recent research has identified neurological connections between experiences of social pain and physical pain. While findings vary regarding the distribution of this relationship across brain regions, studies consistently demonstrate that social pain has a tangible neurological basis, revealing both its mutual influence with and functional relationship with physical pain (e.g., Borsook & MacDonald, 2013). For instance, social pain can trigger responses that closely mirror those resulting from physical trauma—such as numbness (DeWall & Baumeister, 2006) and increased aggressiveness (Twenge et al., 2001). Moreover, individuals with histories of chronic social pain are at greater risk of developing pain-related disorders. Yet unlike physical pain, which is often acute and temporary, social pain tends to be more enduring. Its effects may not be

immediately visible but can persist and intensify over time, leading to long-term psychological and physiological harm (Meyer et al., 2015).

Viewing prison pains through the lens of belonging and social pain offers a deeper understanding of the scope and significance of the potential harms of carceral punishment. Positive social connections and humane environments are not luxuries or matters of mere enjoyment but biological and psychological necessities fundamental to human survival, flourishing, and the affirmation of personhood. In this light, meeting these needs can quite literally be a matter of life and death. Particularly troubling is that these needs are not only threatened by extremely abusive treatments or exceptional carceral regimes. Rather, their imperilment is embedded in the very structure of incarceration itself—in the architecture of prisons, the routines of daily life, the power dynamics between staff and incarcerated people, and the broader institutional logic of exclusion that too often defines the carceral experience.

4 A Right to Belong in the Penal Context

A reckoning with prison pain as social pain—and the related threat to the human need to belong—adds an important lens for questioning whether legal frameworks adequately account for the harms that this form of punishment can inflict. More deeply, such reckoning poses a fundamental challenge to the moral and legal boundaries of punishment practice. This challenge ultimately concerns the issue of whether punishment can ever justifiably pose the risk of depriving a person of their basic social needs.

In addressing this issue, Kimberley Brownlee (2013, 2020) argues for recognizing a moral and legal right not to be socially deprived—that is, not to be systematically denied meaningful social interaction, care, and connection. Unlike material poverty, social deprivation involves a persistent lack of supportive contact, inclusion, and interdependent care, including extreme isolation or persistently hostile or degrading social interactions (Brownlee, 2013: 199–200). Applied to segregating institutions such as prisons, Brownlee contends that deprivation of social bonds cannot be justified as punishment. Even while incarcerated, individuals should retain access to relationships, opportunities to contribute to others' well-being, and the ability to maintain meaningful social ties. Supporting these connections fosters rehabilitation, hope, and motivation for desistance, while affirming that incarcerated people remain social contributors whose relationships continue to benefit families, children, and communities (Brownlee, 2020: 186–188).

Framed within the preceding discussion of the fundamental need to belong, Brownlee's framework offers a solid foundation for extending her proposed right against social deprivation into a broader *right to belong* within the penal—specifically carceral—context. Such a right would protect the fundamental human need and entitlement to feel connected and accepted within a group or community, and to remain embedded in a broader social structure.[2] More importantly, it would serve as

[2] Cf. Duff, 2003: 190 (holding that punishment must be inclusive in two main respects: (1) it must treat the perpetrator as someone bound by and protected under the community's core values, and (2) it must affirm

a normative safeguard against the exclusionary dynamics of carceral life, shielding system-impacted individuals from the harms of social disconnection while affirming their dignity and social worth.

With the fundamental need to belong at its core, the right to belong in the penal context would ensure that system-impacted people can maintain meaningful access to social connection, recognition, and support across three interconnected dimensions: (1) *physical*, by minimizing social isolation and ensuring humane, dignified living conditions; (2) *moral*, by affirming equal worth through respectful treatment and rejecting exclusion or disregard based on power imbalances and perceived status grounded in situational vulnerability; (3) *epistemic*, by listening to and acknowledging system-impacted people's perspectives and needs in institutional decision-making and social settings.

Consistent with Brownlee's framework, the right to belong, including in the penal context, should be recognized as a basic human right for three principal reasons. First, it has *instrumental value*: it supports essential physiological and neurobiological functions, physical capabilities, and mental health—the very foundations of a minimally decent life. Second, it holds *intrinsic value*: it enables individuals to preserve their humanity, autonomy, and self-worth, which lie at the core of their dignity. Third, it is *functionally necessary* for the realization of other rights, including the rights to life, physical and mental integrity, equality, education, work, civic participation, and protection from cruel, inhuman, or degrading punishment.

Traces of a right to belong within the penal context can be found in the international penological principle of social rehabilitation and its close connection to social reintegration (see, e.g., Article 10 of the ICCPR and Rule 59 of the Mandela Rules; see also Coppola and Martufi, 2024). This principle affirms that all system-impacted people should have meaningful opportunities for positive change and (re)acceptance into society. Crucially, this process is inherently bidirectional: it depends not only on the person's readiness to change and reintegrate but also on society's willingness to support their (re)inclusion. This societal dimension calls for robust support networks and active institutional efforts to dismantle the structural barriers that hinder (re)integration. Importantly, the ECtHR has increasingly emphasized this aspect, particularly in cases concerning life sentences (Vinter and Others v United Kingdom, 2013) and the democratic participation of system-impacted individuals (Hirst v United Kingdom [No. 2] 2005). Collectively, these rulings reflect "an understanding of human dignity that demands respect for.. wrong-doers' personhood and sociability" (Mavronicola, 2021: 122), including recognition that exclusion from opportunities for change and reintegration pathways constitute a violation of the Convention.

The recognition of a right to belong within the penal context reinforces the principle of social rehabilitation by ensuring that those who come into contact with the justice system are not only protected from exclusion and abuse but also guaranteed conditions that foster positive social contact and humane environments. Such conditions are essential for safeguarding their well-being and supporting their process of change and (re)integration. Importantly, recognizing belonging as a right entails an affirmative duty to implement practices that sustain individuals' social, emotional,

the perpetrator's civic status, acknowledging them as a fellow citizen deserving of respect and concern).

and intellectual well-being—without which the opportunity to live a minimally decent human life is effectively denied. In this light, belonging should be understood not merely as a desired outcome of punishment but as a constitutive element of the penal process itself. This insight underpins the central normative claim of this paper: any punishment that erodes a person's essential social needs fails to meet the minimal threshold of legitimacy and must therefore be regarded as unjustifiable. If punishment cannot deprive individuals of fundamental aspects of their dignity, it must not deprive them of their fundamental need to belong.

5 Reframing Penal Pain through the Lens of Belonging

What remains, then, of the idea of carceral punishment as the legitimate imposition of pain, if this pain is rooted in systematic threats to a fundamental human need? In theremainder of this paper, I explore this question by turning to the core implications of recognizing belonging as a central normative constraint within the penal—and carceral—context r. While I develop these implications in depth elsewhere (Coppola, 2026, in press), it is worth noting here how such recognition can, first and foremost, prompt sentencing practices better attuned to the qualitative dimensions of punishment and shift the thresholds of humane prison conditions toward more robust protection of the social needs of people in custody. More broadly, confronting prison pain through the lens of belonging invites deeper reflection on the very relationship between punishment and pain, advancing a penal discourse that prioritizes accountability, growth, and structural change over prevailing notions of hard treatment, suffering, and deprivation.

5.1 Belonging-Oriented Sentencing

A sustained recognition of the need—and the right—to belong can prompt a rethinking of sentencing policy and practice. In particular, acknowledging the importance of protecting this need may encourage sentencing frameworks to include an assessment of the anticipated harms of imprisonment for the individuals concerned (cf. Kolber, 2009; Hayes, 2023; Manikis and Matheson, 2024). Such an approach promotes procedures better able to identify and mitigate variations in prison experiences, thereby safeguarding the fulfilment of basic social needs. The sentencing system would thus be calibrated not only according to conventional measures of offense severity, but also in light of the non-durative dimensions of punishment—including the harms likely to befall an individual under anticipated conditions of confinement and the extent to which their social needs are preserved or neglected.

A meaningful way to integrate such qualitative assessments into sentencing is through the active involvement of formerly incarcerated individuals in both policy design and practice. People with lived carceral experience contribute crucial expertise about the qualitative dimensions of imprisonment, including harms frequently overlooked in conventional sentencing schemes. Most notably, their participation helps address knowledge gaps and mitigate systemic risks by providing legal and policy actors with insight into lived realities often invisible to decision-makers. As

Eve Hanan (2020) has argued, valuing this firsthand experience constitutes a form of epistemic justice, recognizing the perspectives of individuals whose voices are frequently dismissed or disregarded in legal and policy decision-making. Beyond its epistemic value, incorporating experiential knowledge can make sentencing more responsive to developmental trajectories and human needs, as well as serve as a catalyst for personal and social transformation (see also Coppola and Daniels, 2025).

Importantly, such a system could support a reduced reliance on custodial sentences and—more fundamentally—encourage greater use of responses that advance individual justice and safety goals while minimizing the risk of undermining well-being from the outset. For example, sentencing practice could increasingly adopt holistic responses to harm, including collaborative or community-based justice programs (Coppola and Daniels, 2025). Similarly, sentencing frameworks that recognize and protect belonging would be better positioned to implement context-sensitive measures supporting social reintegration, such as access to education, employment, rehabilitation, and mental health services. When custodial measures are unavoidable, they should function not as sites of suffering but as institutions that protect well-being, nurture hope, and support flourishing, while attending to fundamental social needs. Taken together, this approach to sentencing would be better positioned to achieve the normative goals of proportionality, safety, and (re)habilitation, while also providing constructive avenues for accountability, promoting desistance, and safeguarding justice-impacted individuals from penal harms.

5.2 Belonging as a Baseline of Humane Prison Conditions

Recognizing belonging as a fundamental human need—and potentially a right—within the penal context offers a valuable lens for reassessing the (in)humanity of prison conditions. This approach involves rethinking the minimum conditions required for imprisonment to be deemed compatible with the standards of humanity and safety established in legal frameworks. It also requires reorienting the legal interpretation of normative criteria for assessing prison conditions by prioritizing the perspectives of those who are incarcerated—thereby fostering interpretations that value, rather than overlook, lived experiences. Foremost, assessments of the humanity of prison conditions through the lens of belonging must be calibrated according to whether individuals' core social needs are met within the carceral environment. This requires close attention to the exclusionary dynamics—broadly understood—that are frequently embedded in institutional life. These include, among others, persistent procedural unfairness, degrading or hostile social interactions, lack of supportive care, limited opportunities for personal growth and skill development, and environments that are monotonous, isolating, or otherwise detrimental to mental and physical well-being (cf. Liebling, 2011). In this way, the threshold of inhumanity should be expanded beyond extreme deprivations—such as egregious institutional abuses or harsh regimes like solitary confinement—to encompass all situations in which individuals' social needs are compromised.

In addition, and perhaps more importantly, a belonging-centered assessment of prison (in)humanity emphasizes understanding prison conditions through the perspectives of those directly affected. As noted earlier, human rights frameworks often fail to capture the qualitative dimensions of confinement, thereby overlooking the

concrete and frequently profound suffering experienced by incarcerated people (cf., e.g., Vannier, 2025). This limitation underscores the necessity of an experience-based interpretation of (in)humanity standards—one that acknowledges the perspectives of those within the prison system. Accordingly, core concepts such as humanity, dignity, and safety should be approached in relation to the concrete contingencies of carceral life, providing a foundation for interpretive guidance that is both realistic and genuinely responsive to the fundamental needs of those incarcerated.

In sum, the assessment of humanity of prison conditions must move beyond formalistic and objective criteria toward people-centered standards that are grounded in the relational and environmental realities of prison life. This interpretive shift could profoundly reshape how the suffering inherent in incarceration is understood and assessed within existing legal frameworks. Drawing on the language of the ECtHR, such a shift may prompt a reconsideration of the distinction between "avoidable" and "unavoidable" suffering inherent in detention. In the U.S. context, it could similarly inform Eighth Amendment jurisprudence by broadening the understanding of what constitutes a "basic human need." As a result, a much wider range of prison conditions and institutional dynamics might come to be recognized as exceeding acceptable thresholds. In this light, the meaning of cruel, inhuman, or degrading punishment would no longer be defined solely by external legal standards or abstract benchmarks. Instead, it would be rooted in—and responsive to—the lived experiences of incarceration, thereby offering more robust protections for the rights and dignity of those subject to the penal system.

5.3 Do We Really Need the Word "Punishment"?

In *The Wages of Criminal Law Exceptionalism* (2023), Alice Ristroph interrogates whether the expressive function of criminal law—its role in conveying moral condemnation—necessarily depends on the use of punitive state violence. In addressing this issue, she calls penal theory to move beyond defending punishment and to foreground a fundamental inquiry into how criminal law and its institutions shape the conditions for human flourishing. For Ristroph, this shift is essential for envisioning alternatives to state violence—and, more broadly, to criminal law itself—as responses to social harm.

The insights outlined in this paper align with Ristroph's proposal insofar as they further challenge the legitimacy of punishment as a system predicated on the infliction of pain. Viewed through the lens of belonging, imprisonment reveals—perhaps most clearly—how the normalization of penal pain can legitimize subtle yet persistent harms that threaten human survival, moral agency, and flourishing. Crucially, this risk is not confined to prison walls but extends to virtually any penal measure in which structural power imbalances shape the relationship between the state and the individual. If state-inflicted pain in practice risks normalizing harms that undermine fundamental human needs, the notion of pain as a legitimate component of state responses to crime becomes morally questionable.

This challenge leaves us with two options. One is to sidestep the issue and continue debating the normative value of suffering in abstract terms within disciplinary silos. The second—and arguably more constructive—option is to bring the concept of punishment

into closer engagement with its actual practices and with the lived realities of those subject to it. This approach requires subjecting the very idea of punishment to deeper critical scrutiny, asking what responses to social harm should entail, what objectives they should serve, and whether "non-painful" interventions might better achieve the aims of justice (cf. Hanna, 2008; Poama, 2015; Matravers, 2016). Pursuing this path may also prompt a rethinking of theoretical language—shifting away from framing punishment in terms of legitimate suffering and resisting terms like "hard treatment," "deprivation," or "hardship," especially when juxtaposed with more inclusive concepts like reparation and reintegration. Over time, this shift could even call for replacing the term *punishment* itself with language that is more neutral, less moralistic, and oriented toward addressing wrongful conduct and its underlying factors rather than inflicting individual pain. Such terminology would frame state interventions as mechanisms for reducing social harm, promoting personal development, shared responsibility, and structural reform, rather than as instruments of suffering. Ultimately, this transformation would aim to deliver a justice process that recognizes the social nature of human beings, accounts for the structural and social determinants of harm, and prioritizes responses that foster accountability and safety while supporting both individual rights and human needs.

6 Conclusion

Belonging, together with the related construct of social pain, provides a crucial lens through which to examine the gap between normative accounts of punishment and its lived reality, particularly in carceral contexts . This lens not only exposes the inherent problems of incarceration but also, more broadly, invites critical reflection on the boundaries of penal responses as a whole. Specifically, recognizing belonging as a constraint on the penal experience demands reorienting the limits of punishment around the protection of essential social needs as a condition for respecting human dignity and raises the broader question of whether—and under what conditions—a system of punishment designed aroundthe deliberate infliction of pain , can ever constitute a legitimate response to social harm. As I note elsewhere (Coppola, 2026, in press), this question cannot be meaningfully addressed without confronting the profound, multifaceted suffering of those most affected by the law. This perspective calls for deeper dialogue between legal scholarship and the lived experience of punishment, both to understand its concrete harms and to envision penal responses that more fully support human development and the possibility of change through accountability , respect, and recognition.

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