Zachary Hoskins, *Beyond Punishment? A Normative Account of the Collateral Legal Consequences of Conviction* (Oxford: Oxford University Press, 2019), 264 pages. ISBN: 9780199389230 (Hardback). £55.00

Hoskins considers whether, when, and why an extensive range of adverse collateral legal consequences of conviction are justifiable; and the principles, values, or considerations relevant to their permissibility p. 11. The book is well-written, methodical, and clearly structured, and will be helpful for moral philosophers interested in penal theory; as well as legal practitioners, penologists, and criminologists more broadly. If you are not a penal theorist, penologist, or a person with some involvement with the criminal justice process, then you may be surprised to learn about the extent of adverse consequences that foreseeably follow from a criminal conviction. Some of the examples Hoskins includes as illustrative are: deportation of non-citizens, restrictions on citizens voting rights (permanent in some US states), restricted access to welfare services, and prohibitions on staying in public or social housing. You will further be surprised that, because these adverse consequences are not part of the court ordered sentence in response to the crime, they are therefore not technically part of punishment. Your surprise is the anecdotal evidence Hoskins uses on p. 35 (which my experience echoes) to illustrate his problem: Because these adverse consequences are not included as punishment, they cannot be justified by whatever answer we give to the question of what justifies punishment. So what, if anything, does justify these consequences? Ultimately, Hoskins argues that intentionally burdensome, intentionally condemnatory consequences may be best regarded as punishment. Only a limited range of collateral consequences are justified instrumentally, on risk-reduction grounds. The lack of existing literature, and lack of recognition of collateral consequences of conviction as an important philosophical problem in moral, legal and political thought, makes Hoskins book especially important.

The main policy focus - used to motivate, illustrate, and evidence his normative argument - is the US context. Hoskins also draws on the criminal justice processes of England & Wales to provide supplementary examples; although he expects (and I agree) that his argument has a boarder application p. 11 (I am more familiar with the criminal justice processes of England & Wales, having worked for two years in the criminal justice voluntary sector before returning to philosophy). To give an indication of a scale of the problem, Hoskins reports that in 2011, around 28 percent of the adult U.S. population had criminal records; whereas 'in the United Kingdom, the Police National Computer in 2014 contained criminal records for roughly 15 percent of the UK population' p. 7. The UK case is complex, but it is worth noting that police recorded crime does not necessarily include all criminal records: other government agencies bring their own criminal prosecutions (eg benefit fraud, prosecuted by welfare authorities). Nor is criminal *records* information the same as criminal *conviction* information – formal cautions and warnings issued by police do not follow from conviction, but are nevertheless part of the individual's criminal record. Yet, particularly prior to 2006, this information may have been stored as local police authority records, rather than Nationally. Without going into further detail, this illustrates why we should consider this a low estimate of the number of individuals with criminal convictions; and why collateral consequences should be a pressing concern for philosophy, policy and practice.

Hoskins offers a helpful account in the first chapters of his methods and scope, along with an indication of metrics for considering collateral consequences of conviction: their scope, content, and duration; and whether these consequences are required, facilitated or permitted by the state. Hoskins's focus is on those formal, legal consequences that follow from conviction (for example, voting restrictions), not informal consequences (the disinclination of private employers to hire persons with criminal records). These important

distinctions enable us to distinguish, compare, and contrast, the extensive and somewhat eclectic collateral legal consequences that we find in different jurisdictions.

These distinctions are useful, but risk making collateral consequences appear more clear cut than they are. For example, in England and Wales, convicted prisoners serving a sentence of 6 months or more are ineligible for housing benefit. This arises from a generally applicable housing benefit rule about absence from home for a period over 13 weeks (a 52 week period applies to hospital stays and to remand prisoners awaiting trial). Benefit ineligibility does not follow from any criminal justice law or policy, and does not apply only to convicted prisoners qua convicted offenders. Since this follows from an application of benefit policy, I am unsure whether for Hoskins this would could as a formal, legal consequence, or instead as an informal social policy consequence. Nevertheless, it is entirely foreseeable that housing benefit dependent prisoners in England and Wales will lose entitlement immediately if they cannot expect to return to their home within 13 weeks (in practice, this is a sentence of 6 months, since the vast majority of prisoners with short sentences serve only half of their sentence).

In Chapter 3, Hoskins builds on Margaret Falls's distinction between *earned desert*, which reflects the moral praise or blame we are due in light of our conduct, and *unearned desert*, reflecting respect deserved as equal persons (Margaret M Falls 'Retribution, Reciprocity, and Respect for Persons'. *Law and Philosophy* 6(1) (1987) p. 40). Hoskins characterises *unearned desert* as deserving 'treatment not only in virtue of *what we have done* but also in virtue of *who we are*.' p.96. Falls's distinction and Hoskins's use of it is illuminating. But in my view, Hoskins's '*who*' may be a misleading interpretation, which nags at this reader for the rest of the book. On my reading, for Falls the relevant content of Hoskins's 'treatment in virtue of … *who we are*' p. 96, is *who* we are *as persons*. Given this abstract, generalised content, we could alternatively read this as *what* we are (persons), rather than *who* (individuals).

I propose that Hoskins's 'who we are' might usefully be read as 'what' we are, since many of the examples he offers seems to relate to generalisable, shared characteristics: that the offender committed a particular type of offence (drugs offenders may be barred from accessing welfare p.167, 172.); or shares a particular characteristic with others (offenders from poorer backgrounds cannot afford unsubsidised housing, and often become homeless if public housing is denied p. 117). In short: 'what' I am, qua group membership; versus 'who' I am, qua particular individual agent. As Hoskins identifies, this might become particularly troubling when the treatment according to 'who' (or what) offenders are, is problematically discriminatory: 'predictions about a person's future behavior based on her age, race, or sex [group membership], is not consistent with respecting her as an autonomous agent, because such predictions are not responsive to her own [individual] autonomous choices' p.181.

This is one of the ways that the book, declines to focus on the individual context of particular offenders. This is not quite a criticism; it simply reflects that, whereas Hoskins is particularly interested in formal, legal, collateral consequences of conviction; my own interest over the past decade has been the informal, social, contextually informed collateral consequences faced by people with convictions. Hoskins's work shines a long overdue light on the collateral consequences of conviction, and it shows us that we do not yet fully understand how deep this particular cavern goes.

The closing two chapters are fascinating and could have been helpfully expanded, had there been space in a single volume. Chapter eight considers the responsibility to inform US defendants of the consequences of conviction. Increasingly, US defence attorneys are required to convey to clients the likely outcomes of conviction, taken to include collateral consequences. Hoskins argues that the responsibility to provide information should be borne

instead by the prosecution, since prosecutors place the defendant in a position where she must decide whether to waive her right to the presumption of innocence via a guilty plea.

It would be naïve to offer the criticism that guilty defendants have put themselves in this position by their autonomous decision to offend: naïve because it rest on the assumption that innocent defendants have nothing to fear by going to trial. A stronger argument might perhaps be that the prosecutor, as the representative of the state, has more resources and better access to the necessary information to identify *all possible* consequences. Hoskins relieves the defence of this responsibility, arguing that defence attorneys are better placed to identify consequences relevant for their client, and ensure their client's understanding.

However, legal consequences are many and varied, arising from any change of law or policy, not just criminal justice policy. So, I wonder if it is overly optimistic for even prosecutors to have complete up-to-date knowledge of all of the possible collateral legal consequences of conviction. Chapter nine - bursting with blistering ideas about the implications for either limiting criminalisation in light of collateral legal consequences, or reducing and streamlining collateral consequences - leaves me eagerly awaiting Hoskins's future work.

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