

Shall We Not Revenge?¹

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Abstract: Building on Joshua Gert's argument that revenge is a basic good, I argue that revenge is ethically permissible in some cases. The weaker claim is that it is permissible to seek revenge when other factors independently justify the vengeful action, while the stronger claim is that it is sometimes permissible to seek revenge for its own sake. After arguing that revenge is sometimes permissible, I propose three additional requirements for ethical revenge.

Building on Joshua Gert's work which argues that it is rational to pursue revenge,² I argue that revenge is a good to which victims are entitled, and that it is thus morally permissible to pursue revenge in some circumstances. There is a weak claim and a strong claim: The weak claim is that revenge is ethically permissible in cases where the vengeful action can be independently justified, that is, where it can be justified by appealing to goods other than revenge. The strong claim is that there are cases where it is ethical to take revenge even though the act cannot be independently justified, or self-justified. In addition to proving these claims, I mean to provide a framework with which we could judge the (im)permissibility of particular revenge acts.

In Parts I and II, I will propose a working concept of revenge, and explain Gert's argument that revenge is a basic good. I will defend the weak claim in Part III, and the strong claim in Part IV. In Part V, I will propose three additional guidelines for determining whether a revenge act is ethical.

Part I. Revenge and Moral Injury

Joshua Gert defines revenge as "returning injury for injury."³ For our purposes, I will consider revenge acts to be those which return injury for *moral* injury. Following Joram Haber, I hold that moral injuries threaten one's dignity because they demonstrate that another person has failed to see us one a moral equal.⁴ Without this qualification, we might misclassify some acts of mere sadism as revenge, as in cases where the initial injury is merely an excuse to act out sadistic impulses. Since moral injury does not supply the motive for these actions, I will exclude them from this analysis of revenge.

Revenge may respond to *actual* or *imminent* moral injury. If it is *actual*, then the injured person has already suffered an indignity which diminished their self-respect, whereas *imminent* moral injury merely threatens to diminish the sufferer's dignity, but has not yet done so. In either case, inflicting a moral injury need not be morally wrong. If someone has an exaggerated sense of their own entitlements, they may suffer moral injury even if nobody wrongs them. If I believe that I am entitled to bully my coworkers,

¹ The title of this paper comes from a famous monologue in Shakespeare's Merchant of Venice.

² Joshua Gert, "Revenge is Sweet," *Philosophical Studies* (2018): 1-16.

³ Gert, "Revenge is Sweet," 3.

⁴ Joram Haber gives an account of moral injury in the fourth chapter of his book. Haber, *Forgiveness: A Philosophical Study*, (Rowman & Littlefield Publishers, 1991).

I might suffer moral injury if someone appropriately criticizes me, and this could serve as a basis for (unethical) revenge.

Following Jeffrie Murphy, I consider even minor acts of retribution to be revenge.⁵ A harsh glance could be revenge, so long as the avenger seeks to harm someone who dealt them a moral injury. We can say that an avenger who has dealt a greater amount harm to their target has taken “more” revenge than one who causes less harm. In the next section, I will explain Gert’s argument that revenge is a *basic good*, which we possess in proportion to the revenge we take.

Part II. Revenge is Good

Gert argues that revenge is a *basic good*, meaning that it is “the sort of thing, the pursuit of which, for oneself, always provides a reason—though not always a sufficient reason—for action.”⁶ Although he makes no claims about the ethical permissibility of taking revenge, he argues that revenge is on the “list of objective goods,” and that it is thus *rationally* permissible for individual people to pursue it.⁷

In demonstrating that revenge is good, Gert borrows Mill’s methodology from chapter four of *Utilitarianism*, in which Mill argues that “human desires and preferences provide evidence that something is good.”⁸ Assuming that this is basically correct, the “often...very stable” desire for revenge provides evidence that revenge is “eligible for rational desire,”⁹ and that the pursuit of revenge can thus be “explained in terms of the reasons for and against it,” rather than being plainly irrational.¹⁰ Gert defends his view—I think successfully—from criticisms based in the facts that some rational people do not desire revenge,¹¹ and that others who take revenge are not satisfied.¹² Many good things are not universally desired, and people are often dissatisfied when they achieve their goals. As with happiness, a person who is motivated to pursue revenge does not need additional reasons to act, and can rationally act in pursuit of revenge alone. In this significant sense, revenge is good.

Part III. Incidental Revenge

In this section, I defend the weak claim that it is reasonable to value revenge as a side benefit of actions which can be justified for other reasons. In addition to being a basic good, revenge may provide various ancillary goods that further justify vengeful actions. Among these are pleasure, moral expression, and affirmation of self-respect.

On January 18, 2015, college freshman Brock Turner sexually assaulted Chanel Miller while she was unconscious.¹³ A year later, he was convicted of three felonies of sexual

⁵ Jeffrie G. Murphy, *Getting Even: Forgiveness and Its Limits*, (Oxford University Press, 2005).

⁶ Gert, “Revenge is Sweet,” 2.

⁷ *Ibid.*, 4.

⁸ *Ibid.*, 4.

⁹ *Ibid.*, 5-6.

¹⁰ *Ibid.*, 6.

¹¹ *Ibid.*, 5.

¹² *Ibid.*, 6.

¹³ I use the term “sexual assault” not to euphemize Turner’s actions, but because a jury declined to convict him for “rape of an intoxicated person” and “rape of an unconscious person.” Also, most sources refer to Miller as Emily or Jane Doe, since she only revealed her real name in September

assault, which together carried a maximum sentence of fourteen years.¹⁴ Although the minimum sentence was two years, Turner was ultimately sentenced to only six months in a county jail, of which he served three.¹⁵

Before the sentencing, Turner's probation officer spoke with Miller, and asked for her opinion about how Turner should be sentenced.¹⁶ Although the probation officer's report implies that Miller wanted Turner to receive a light sentence, she later claimed that her statements had been "slimmed and taken out of context," and that she wanted Turner to receive an appropriately severe sentence.¹⁷ In his defendant statement, Turner continued to assert that Miller had consented to be penetrated, and he blamed his own conduct on alcohol: "Being drunk I just couldn't make the best decisions and neither could she. I stupidly thought it was okay for me to do what everyone around me was doing, which was drinking. I was wrong."¹⁸ In her victim impact statement, Miller says that she wanted Turner to "understand and admit to his wrongdoing," but that actually, "all he has admitted to doing is ingesting alcohol." It was from this position—of seeking to reclaim her dignity with legal recognition of the wrong done to her—that Chanel Miller made her victim statement.

By the definition of revenge which I described in Part I, Miller's impact statement is clearly vengeful. "What has he done to demonstrate that he deserves a break?" she writes. "He has only apologized for drinking and has yet to define what he did to me as sexual assault, he has victimized me continually, relentlessly." Although she argues that it would be just for Turner to receive a relatively severe sentence, it is clear that she also seeks revenge for the continual moral injury she has suffered at his hands.

It was not only justifiable, but *good* for Miller to write this letter. Further, the goods this letter produced cannot be separated from its vengeful nature. Miller's impact statement brought substantial media attention to the case, which directly caused California legislators to close the legal loophole which allowed for Turner's light sentence.¹⁹ Miller's courage has inspired many other survivors of sexual assault, and she

2019. Hannah Knowles, "Brock Turner Found Guilty on Three Felony Counts," (The Stanford Daily, 31 March 2016), www.stanforddaily.com/2016/03/30/brock-turner-found-guilty-on-three-felony-counts/.

¹⁴ Nick Anderson and Susan Svrluga, "Prosecutors Urged 'Substantial Prison Term' in Stanford Sexual Assault Case, Records Show," (The Washington Post, 29 Apr. 2019), www.washingtonpost.com/news/grade-point/wp/2016/06/11/prosecutors-urged-substantial-prison-term-in-stanford-sexual-assault-case-records-show/.

¹⁵ Emanuella Grinberg et al., "Brock Turner Released after 3 Months in Jail," (CNN, 3 Sept. 2016), www.cnn.com/2016/09/02/us/brock-turner-release-jail/index.html.

¹⁶ "Probation Report," <https://www.documentcloud.org/documents/2858997-Probation-officers-report-in-Brock-Turner-case.html>, 6.

¹⁷ Katie J.M. Baker, "Here's the Powerful Letter the Stanford Victim Read to Her Attacker," (BuzzFeed News, 3 June 2016), www.buzzfeednews.com/article/katiejmbaker/heres-the-powerful-letter-the-stanford-victim-read-to-her-ra.

¹⁸ "Probation Report," 8.

¹⁹ Associated Press, "California Passes Mandatory Sentences for Sexual Assault after Stanford Scandal," (The Guardian, 30 September 2016), www.theguardian.com/us-news/2016/sep/30/stanford-sexual-assault-case-california-rape-law. As this article discusses, creating mandatory minimum sentences is controversial even among groups which advocate on behalf of rape survivors; whatever unintended consequences these policies may produce, they are not salient for our case.

plans to build on this work in an upcoming memoir.²⁰ This letter is not valuable *despite* Miller's attempts to take revenge against Turner, but in great part *because of* them. If Miller had forsworn vengeance—say, by writing in a gentle tone, and requesting the lightest possible sentence—it is very unlikely that her letter would have had the same cultural impact. Since Miller is a victim who deserves compensation for her pain, and because her revenge serves a positive social function, it would be unreasonable to argue that her statement was morally problematic *only because* she sought revenge in addition to justice. We should rather conclude that Miller was justified in attempting to take revenge, if only because this choice was virtuous for other reasons.

Part III. Self-Justified Revenge

I here defend the strong claim by analogy with tort law. Most readers will probably accept that it is ethical, in at least some cases, for courts to force people to pay damages to a person they have seriously harmed. (This does not require the reader to accept that the justice system is justified in its whole existence, so long as the act of awarding damages is, itself, justified in at least one case.) If this is ethical, it is because it is sometimes appropriate for wrongdoers to suffer, at least when their suffering benefits their victims.²¹ Since the victim has been unjustly harmed, they are entitled to goods which could, in part or whole, compensate them for the harm they suffered.

In United States civil law, juries award compensatory damages to plaintiffs harmed by misconduct or negligence. In cases where the defendant is considered to be liable for causing injury, the court awards the victim with a good of one kind (money) to compensate them for losing goods which are often vastly different (health and happiness). This system implies that, when it is not possible to compensate victims by recovering their *exact* losses, it is better to award them money than to award them nothing at all. If we accept the moral justification for awarding compensatory damages in civil cases, as well as the claim that revenge is a personal good, then it seems that revenge could be another good to which victims are entitled.

To say that one person seriously wronged another seems to imply that it would be appropriate for the offender to compensate the victim, even if this would require the offender to suffer. If I say, "I wronged you deeply in stealing that money," but I do not make any effort to compensate you for the harm done, then I do not seem to endorse my own words. So long as the offender does not suffer more than they deserve for committing the crime, this principle seems uncontroversial. Like compensatory

²⁰ Alia E. Dastagir, "Emily Doe Writing Memoir to 'Reclaim the Story' of Sexual Assault by Brock Turner" (USA Today, June 5, 2019), <https://www.usatoday.com/story/news/nation/2019/06/05/emily-doe-survivor-brock-turner-case-writing-memoir/1361247001/>.

²¹ Tort theorists disagree about whether this sort of relationship between wrongdoer and victim is necessary to ground tort law as legitimate. Many favor economic analyses, which attempt to justify tort law by its ability to deter harmful behavior, rather than the liability or moral desert of the involved parties. Still, it seems impossible that mere deterrence could justify the tort system if the law did not also properly assign responsibility for harm done; an economically efficient system which routinely punishes people who are not responsible for the initial harm would be unjust. Jules Coleman, Scott Hershovitz, and Gabriel Mendlow, "Theories of the Common Law of Torts," Stanford Encyclopedia of Philosophy, December 17, 2015, <https://plato.stanford.edu/entries/tort-theories/>

damages in a courtroom, revenge is a transactional good, by which one person profits at the expense of another. In principle, we should endorse transactions of goodness from offenders to victims, unless there is a particular reason to condemn them.

I believe that these first three sections are sufficient to shift the burden of argument onto those who would argue that revenge is inherently wrong. If we can identify at least one case where the good for the victim is not counterbalanced by other harms, then we should conclude that there are acts of self-justified revenge.

Part IV. Three Criteria for Ethical Revenge

i. Bystander Criterion

Ethical revenge acts will not significantly harm innocent bystanders. If there are self-justified revenge acts of the kind I described in Part III, then their justification probably relies on a normative principle relating to moral responsibility. Assuming this much, it would be self-defeating for an avenger to victimize other people, and thus to create new moral injustices and debts. Revenge of this kind could never be self-justified.

That said, it might be permissible for the avenger to cause *some* harm to bystanders, so long as the harm is negligible compared to the good of justified revenge. If I file a vindictive lawsuit against a person who has grievously wronged me, then I am almost guaranteed to cause stress, boredom, and irritation to the innocent bystanders who make up the jury. Since this harm is minor compared to my loss, it does not seem to threaten the ethical status of my decision.

ii. Reasonable Confidence

The ethical avenger has proper *epistemic humility* about her ability to judge others as deserving punishment, and errs on the side of gentleness to the extent that she is uncertain. Before taking revenge, one must have reasonable confidence regarding not only the facts of the case, but also the moral judgments which pertain to them. These responsibilities are greater or lesser in proportion to the harm which the avenger would inflict against the offender.

First, we must have reasonable confidence that the object of our revenge is actually responsible for the act that harmed us. If Inigo Montoya intends to kill his father's murderer, he must be absolutely sure that the person he kills *is* his father's murderer.²² Next, he must ascertain that there are no other circumstances which *excuse* or *justify* the killer's behavior. If Inigo learned that Count Rugen was not able to control his own actions when he killed Inigo's father, it would be immoral for Inigo to take revenge; this would be a good *excuse* for Rugen's behavior. It would also be wrong for Inigo to avenge his father if Rugen had killed him in self-defense, or as an act of revenge which was, itself, justified. These are plausibly *justifications* for Rugen's behavior. If the avenger punishes someone who does not deserve punishment, she has *mispunished*.

iii. Proportionality

Revenge should not be more severe than the original offense. To punish a person more than they deserve is, by definition, to harm someone who does not deserve it, and this seems obviously immoral. It doesn't follow that punishment should *never* be more

²² Although I have used this colorful example, I do not commit to the strong claim that revenge can justify murder.

severe than the crime, but if it is, there must be some reason other than revenge, such as increased deterrence.²³

Thane Rosenbaum argues that avengers should seek exactly proportionate retribution,²⁴ but this is problematic because there is no way to precisely calculate moral desert. The avenger should not have full confidence in her ability to weigh factors which might mitigate the offender's culpability, and since punishing the offender *more* than they deserve is fundamentally wrong, she should err on the side of underproportionate revenge.

There are two sins which an avenger can commit against the criterion of proportionality, these being *overpunishment* and *recklessness*. I have overpunished my offender if I harm him more than he deserves, and I have been reckless if I have created an unreasonable risk of my doing so. Overpunishment entails recklessness, but it is possible for the avenger to be reckless even if she does not punish the offender more than he deserves. The avenger becomes reckless when she does not take sufficient precautions to avoid overpunishing the offender, for example, by making sure she knows as many relevant facts as possible, and that her feelings of resentment are justified. If I punish someone based on a rumor which might be false, then I have been reckless even if my target actually did have it coming.

Overpunishment is condemnable, while underpunishment is always permissible for the avenger. (It might be immoral to underpunish when revenge has been delegated to a third party, as in criminal law.) For this reason, the ethical avenger will seek to underpunish, and thus to diminish the risk of being unjustifiably harsh to the wrongdoer.

Conclusion

Revenge is good, and it is good when victims succeed in taking revenge against the people who wronged them. To pursue revenge ethically, avengers must take care to punish the right people no more than they deserve, and to do so without causing significant harm to bystanders. Revenge may be justified for its own sake, or enjoyed as a benefit of actions taken for other reasons.

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²³ I should note that, in practice, legal punishment is ineffective at deterring crime. "Five Things About Deterrence" (National Institute of Justice, n.d.), <https://nij.ojp.gov/topics/articles/five-things-about-deterrence>.

²⁴ Thane Rosenbaum, *Payback: The Case for Revenge* (Chicago: University of Chicago Press, 2013).

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