

Summary of argument for Neuroethics: Why Responsibility Doesn't Matter and Criminal Psychopaths

The traditional libertarian and compatibilist accounts of free will are typically understood to defend the position that psychopathic criminals are (at least in part) morally responsible. As Walter Glannon maintains, psychopaths "seem to know enough about what they are doing to be held responsible for their behaviour" (Glannon 1997:263). On this view, even if current findings from neuroimaging, genetics, and certain behavioral sciences demonstrate that psychopaths are likely to possess enough cognitive and affective impairment to rule out their capacity for full responsibility, they still seem to possess (at least) partial responsibility for their actions and they are therefore taken to be without excuse for their criminal behaviour (Glannon, 2008). As such, holding criminal psychopaths responsible is understood as ethically justified and thus the results of their condition cannot exonerate them from punishment. A core part of the argument to establish this is as follows:

Argument 1:

- 1a. If criminal psychopaths are responsible, criminal psychopaths are without excuse
- 1b. Criminal psychopaths are responsible
- 1c. Therefore criminal psychopaths are without excuse

Argument 1 is valid, and therefore entails the conclusion. However, premise 1b is problematic for several reasons. This premise is commonly underwritten by the *Default Position* that all persons are responsible unless "enough" evidence of impairment (Glannon 2008:165-66) can be shown to prove otherwise.

Argument 2:

- 2a. If criminal psychopaths are responsible (and without excuse), criminal psychopaths have not demonstrated "enough" impairment.
- 2b. Criminal psychopaths have not demonstrated "enough" impairment
- 2c. Therefore criminal psychopaths are responsible

Argument 2 is invalid and therefore cannot be used to establish premise 1b of argument 1: namely, that criminal psychopaths are responsible. What is more, reviewing empirical evidence from recent advances in neuroscience demonstrates that premise 1b is false.

In sum, the burden of our paper is to challenge the need to engage questions of responsibility for determining how to properly process criminal psychopaths.

Abbreviated bibliography

- Baertschi, B., (2009), *La Neuroethique, ce que les neurosciences font a nos conceptions morales*, Editions la Decouverte.
- Fischer, M. and Ravizza, M., (1998), *Responsibility and control*, Cambridge Studies in Philosophy and Law.
- Glannon W. 2008. Moral responsibility and the psychopath. *Neuroethics* 10.1007/s12152-008-9012-x.
- Glannon W. 1997. Psychopathy and responsibility. *Journal of Applied Philosophy* 14 (3): 263-275.
- Pereboom, D., (2009), *Defending Hard Incompatibilism Again*, forthcoming in *Essays on Free Will and Moral Responsibility*, Nick Trakakis and Daniel Cohen, eds., (Newcastle: Cambridge Scholars Press).
- Pereboom, D., (2001), *Living without Free Will*, Cambridge University Press.
- Strawson, G., (1986), *Freedom and beliefs*, Oxford University Press.
- Van Inwagen, P., (1983), *An Essay on Free Will*, (Clarendon Press: Oxford).
- Waller, B., (2004), *Virtue unrewarded: Morality without moral responsibility*, in *Philosophia*, Volume 31, Numbers 3-4, October 2004, pages 427-447.