

HOLDING PSYCHOPATHS RESPONSIBLE

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Arguments *against* responsibility

1. from knowledge: Many philosophers and others argue for exempting psychopaths from responsibility on the grounds that they can't understand moral reasons.
 - But this rests on the debatable view that understanding a moral reason implies being motivated to conform to it. Psychopaths do seem to have at least a "rote" or emotionally shallow understanding that their acts are wrong.
2. from control: A less tenuous line of argument appeals to deficits in the emotional resources for self-control stemming from psychopaths' inability to empathize with childhood caretakers' negative reactions to their misdeeds.
 - But an argument from *our* appropriate reactions *to* psychopaths can still support the attribution of at least basic moral responsibility, giving grounds for at least mitigated legal punishment.

Justifying reactive attitudes

- There's a view in the free will literature due to P. F. Strawson according to which holding someone responsible involves taking him as the object of "reactive attitudes."
 - These include resentment, indignation, and the like, for harm done; or gratitude, for a benefit; or guilt, pride, etc., where the object is oneself.
- What justifies these attitudes in a given case and makes an agent responsible is the moral quality of his intention, his good or ill will.
 - Strawson's point is that it doesn't matter whether normal intentions are causally determined, but we can also apply this to cases of deficient control over intention formation.
- Though Strawson doesn't distinguish, note that further motivating attitudes on the part of the agent might be needed for *free will*, as sources of the ability to control oneself and avoid acting wrongly.

Moral responsibility?

- Some might want to deny that the psychopath's responsibility counts as *moral* responsibility. But it's not just *causal* responsibility, of the sort we also attribute to inanimate objects.
 - We attribute fault to qualities of the psychopath's will or intention, rather than simply treating him as a cause of harm.
- Nor is a psychopath rightly compared with a vicious animal that can exhibit harmful intent but lacks the capacity for rational self-control.
 - Psychopaths apparently have enough capacity for deliberation and perspective-taking (in contrast to autistics) to manipulate others. So unlike animals, they're able to intend *harm* (vs. simply having an intention that *causes* harm) in the way entailed by "ill will."
- Further, in contrast to psychotics or to cases of external interference, the psychopath's behavior exhibits enough rational coherency to be attributable to *his own* ill will.

Legal punishment?

- There still may be reasons for assigning a *lesser degree* of responsibility to psychopaths.
 - In any case, the question of *legal* responsibility and punishment raises some distinct issues, such as likely effects on other potential offenders or society at large, that are outside the scope of the present argument.
- However, assigning at least diminished responsibility to psychopaths provides a rationale for taking them as subject to *some* degree of punishment, not just to confinement for a mental disorder.
 - How much in the way of “hard treatment” their responsibility justifies is of course a further question, given their limitations as regards self-control.
 - The point is just that a “reactive attitudes” account of responsibility can put them somewhere in the category of “punishable” agents, albeit with grounds for mitigation.

Unfair?

- Some might object that it's unfair to assign *any* degree of responsibility to someone incapable of avoiding wrong.
 - But while psychopaths can't control themselves as readily as normal agents, or as reliably, or just on the basis of reflection on moral reasons, it doesn't follow that they're unable to refrain from committing a wrong act on a specific occasion.
 - Just as they have at least a shallow or "rote" understanding of moral reasons and can recognize the importance others assign to them, they also may have other, indirect means of self-control in a given instance, e.g. by avoiding situations likely to provoke the impulse toward wrongdoing.
- In case it seems inappropriate to subject someone to resentment or some other variant of anger unless he has a fair chance to avoid it, there are alternative reactive attitudes, based on disgust or contempt rather than anger, that can apply to acts as manifestations of character traits whether or not they're within an agent's control.

What's the point?

- Another likely objection to applying a “reactive attitudes” approach to psychopaths is that the usual point of holding someone responsible – its potential effectiveness in inducing behavioral change – doesn't apply.
 - But as Gary Watson has pointed out, the point of the social practice on a Strawsonian account isn't just to induce change but also (or instead) to *communicate* something to the offender.
- Even if a psychopath can't fully understand what it is for an act to be morally wrong, or for a reason to be a moral reason, he can still be made to register more vividly others' condemnation of it.
 - By punishing him, we're giving him reason to *regret* what he did – even though he's incapable of feeling guilt or remorse and is unlikely to feel regret at the right times to inhibit future wrongdoing.

If time permits...

A more specific sort of objection rests on asking whether a psychopath is any more responsible for his emotional deficit than (say) someone with congenital brain damage.

- The answer is no, but what's in question isn't responsibility for the underlying condition – or for that matter, in normal cases, for an aspect of moral character that may have been fixed in early childhood -- but rather for an act to which it contributes.
- In applying the “reactive attitudes” account to a particular case of brain damage, we'd need to ask whether the case allows for the kind of coherency in an individual's pattern of action over time that would make a wrongful act count as manifesting his will.
- It's important that the psychopath's condition doesn't result in a thoroughly disordered pattern of action. He may be unreliable in pursuing long-range goals, but he acts on the basis of at least short-term deliberation. So appeal to his underlying condition should serve just to qualify his degree of responsibility, not to exempt him completely.

To sum up...

I've argued that, despite psychopaths' deficits in the emotional sources of self-control, they can be held responsible and taken as eligible for some degree of punishment if we

1. interpret responsibility in terms of reactive attitudes to good or ill will,
2. drive a wedge between responsibility and free will by distinguishing the grounds for others' appropriate reactive attitudes from their effects on the agent's capacity for self-control, and
3. understand practices of responsibility and punishment as sufficiently justified by their role in communicating social censure to the agent, whether or not they're capable of influencing behavior.