Morality, Psychopathy, and Responsibility: Can Psychopaths be Morally Responsible Agents?

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ABSTRACT

While many researchers are still pessimistic about possible treatment methods for individuals with psychopathy, burgeoning research in treatment methodology and neuroscience is beginning to reverse that trend. Broadly construed, the individual with psychopathy suffers from a large constellation of symptoms, each varying by degrees of severity. Psychopathy is primarily associated with aggression, callousness, and manipulation, and to a lesser degree, murder, psychosis, poor judgment, and an inability to learn from past mistakes. Perhaps most striking is the psychopath's total inability to experience certain affects such as guilt, empathy, and remorse. Past treatment methods of psychopathy have ostensibly failed, leading to the premature pessimistic view that psychopathy is an untreatable illness. Recent research in neuroscience, however, seems to have shed some light on the possible neural loci of some of the behavioral deficiencies in psychopaths, especially locating some of the possible neural causes of certain emotions, prompting some to say that psychopathy can be treatable. In this paper, I will hope to show that the primary conversations that have taken over this debate, namely, whether or not non-treated psychopaths have moral responsibility, is a rather benign argument. Since there is little argument that severe psychopathy is and should be considered a mental illness, and that psychopaths should be treated if able, I argue that we should be primarily concerned with the *treated* psychopath's moral responsibility. Nevertheless, I argue that psychopaths neither can gain moral responsibility through treatment (supposing they do not have it), nor maintain it (supposing they do). I conclude that those many who argue that psychopaths do have moral responsibility must also accept that a psychopath will lose moral responsibility for his actions if treated property, and vice versa.

Keywords: Psychopathy, moral responsibility, moral agency, amygdala, serotonin

I can be made responsible for whatever was contained in my purpose, and this is the chief consideration as far as crime is concerned. But responsibility involves only the wholly external judgment as to whether I have done something or not; and the fact that I am responsible for something does not mean that the thing can be imputed to me.

-Georg Wilhelm Friedrich Hegel, The Philosophy of Right

Not to mock, lament, or execrate, but to understand human actions. —Baruch Spinoza, *Political Treatise*

While many researchers are still pessimistic about possible treatment methods for individuals with psychopathy, burgeoning research in treatment methodology and neuroscience is beginning to reverse that trend. Broadly construed, the individual with psychopathy suffers from a large constellation of symptoms, each varying by degrees of severity. Psychopathy is perhaps the most severe version of antisocial or dissocial personality disorder (ASPD), primarily associated with aggression, callousness, and manipulation, and to a lesser degree, murder, psychosis, poor judgment, and an inability to learn from past mistakes. Perhaps most striking is the psychopath's total inability to experience certain affects such as guilt, empathy, and remorse. Past treatment methods of psychopathy have ostensibly failed, leading to the premature pessimistic view that psychopathy is an untreatable illness (Reidy 2013). Recent research in neuroscience, however, seems to have shed some light on the possible neural loci of some of the behavioral deficiencies in psychopaths, especially locating some of the possible neural causes of certain emotions, prompting some to say that psychopathy can be treatable. This paper will not serve as a blueprint for which researchers can follow to treat psychopathy; rather, I will hope to show that the primary conversations that have taken over this debate, namely, whether or not non-treated psychopaths have moral responsibility, is one that is missing the mark because it glosses over the tension between the seemingly uncontroversial issue of treatment against the psychopath's moral responsibility. I will first describe common diagnostics psychologists use to determine psychopathy in an individual, and then I will discuss the biological and neural etiological possibilities that seem to match the most morally significant psychosis in the psychotic. Finally, I will suggest that there are strong reasons to believe that some untreated psychopaths do not have moral responsibility because

of neurological predispositions. I will also mention a further point, namely, that if the burgeoning treatment methods are successful, psychopaths cannot *gain* moral responsibility. Conversely, if a psychopath does have moral responsibility, he can only lose it through treatment, and thus this is where the discussion should lay.

1. PSYCHOPATHY, A CLARIFICATION

It is unclear whether psychopathy is a mere product of Nature, that is, a peculiar cocktail of chemical imbalances found exclusively in the brain, a result of a particularly bad upbringing, or a mixture of the two (Brogaard 2012). There are numerous possible and interrelated symptoms that may manifest into a psychopathic person, but it would be deceiving to posit that persons can be divided into "psychopathic" and "non-psychopathic" (Brogaard 2012). Much like the Kinsey scale, the range of psychopathic behaviors consists in a diverse field of possibilities and the distinction between a psychopath and a nonpsychopath is not always, if ever, a clear one. Psychologist Robert D. Hare famously devised a "Psychopath Test" (of which there are now many versions), which lists a number of behavioral traits that could manifest in individuals with psychopathy; the higher the score on Hare's Psychopathic Personality Test, the more complex and severe the psychopathology, and therefore the more difficult to both identify and treat it (Blair 2007). Attributes listed include superficial charm, grandiose sense of selfworth, lack of remorse or guilt, shallow affect, callous and/or lack of empathy, poor behavioral controls, and so on. The most severe attributes on the list include criminal versatility, revocation of conditional release, and failure to accept responsibility for own actions (Blair 2007).

According to Kossen, what makes a psychopath unique, that is, what distinguishes him from nonpsychopaths or even individuals with the most severe cases of antisocial personality disorder is precisely the psychopath's lack of certain emotions, such as a lack of guilt, remorse, and empathy for others. Running concurrently to these traits is the psychopath's unusually high tendency for aggression, violence, and outbursts of rage (Pickersgill 2011). It seems that *lack of certain emotions* is most relevant to a psychopath's moral behavior for two reasons. First, it is what distinguishes them particularly from others with antisocial personality disorder, who are generally accepted to be able to make at least basic moral decisions; and second, it seems that these particular traits, namely, the lack of empathy, guilt, and remorse, are the primary motive for performing the most

heinous crimes. Furthermore, there is some argumentation that the psychopath's lack of emotion is the fundamental characteristic that *leads to* the other symptoms. In other words, those qualities that are enhanced, like manipulation and glibness, are enhanced precisely because they are compensating for missing affects.

It is important to note here, however, that numerous studies have shown that the reasoning faculty, that is, the moral reasoning levels, of the psychopath is *not* a diseased faculty as it could be in psychotics. It seems that psychopaths are in fact particularly adept at reasoning and planning out that situation which they need or want to manipulate (Kossen 2013). To give a clearer picture, consider for a moment the distinction between a psychopath and a psychotic. Recall that a psychotic *does* have significant deficits in the reasoning processes; for example, the psychotic would hallucinate, hear voices, and have a completely alternate sense of reality. The psychopath, on the other hand, maintains a sense of reality, even a sense of "right and wrong," but displays the characteristics of one who is manipulative, grandiose, and shows a total lack of empathy. Psychotics are not responsible for many violent crimes, whereas the psychopath is responsible for a disproportionate amount of crime (Kossen 2013).

2. BIOLOGICAL CAUSES OF PSYCHOPATHY AND THE NEUROBIOLOGICAL THEORY OF PSYCHOPATHY

In this short section, I want to illustrate the complexity, diversity, and degrees the many facets that might contribute to the etiology of psychopathy. My hope here is to suggest that some of the neural structures of some psychopaths are dysfunctional in such a significant degree that they may not have moral responsibility for some of their actions. Most neurocriminologists and psychologists today agree that psychopathy is likely caused by a set of predetermined biological structures of the brain, which can be *triggered* by bad social conditions in the adolescent stage of life—that is, it does not seem that a bad childhood is sufficient to make a psychopath, whereas a dysfunctional brain could be. Profound dysfunction in the brain is often coupled with poor adolescence, but the latter has never been reported to be the sole cause, and it is not generally accepted to be. A basic principle in neurobiology and neuropsychology is the notion that "certain functions are, to some degree, localized within certain areas of the cerebral hemisphere, whereas others are lateralized to one hemisphere of the brain" (Brogaard 2012). Recent tests have shown strong associations and correlations among individuals with psychopathy

and fundamental biologic differences from nonpsychpaths, insofar as a structural difference exists between the two.

As has been stated, the individual with psychopathy has strong dysfunction in emotional processing, which places them in a unique position in the umbrella term for antisocial personality disorder. While individuals with the most severe cases of antisocial personality disorder display certain characteristics, such as an unusual lifestyle, antisocial behavior, and crime, it is only the individual with psychopathy that has all of the factors of antisocial personality disorder, *as well as* dysfunctional emotional processing. Such unique attributes in individuals with psychopathy, as well as the fact that psychopathy does not show up suddenly in the midst of adulthood, seems to imply an abnormality of the brain itself, where such dysfunctions are a result of a brain that disallows psychopaths to process certain emotions (Brogaard 2012). Herpertz and Sass have shown some evidence of a "close association between the difficulties that psychopaths have in emotional processing and poor prefrontal functioning" (2000, 587).

There is now agreement that amygdala dysfunction is a major underlying neural component that disallows individuals with psychopathy to process emotions. The amygdala has long been implicated as crucial neural loci of moral emotions. This is a result of the association of the amygdala with "averse conditioning and instrumental learning, as well as recognition of fearful and sad facial expression responses" (DeLisi 2009, 1242). Brogaard writes, "brain scans revealed that psychopathy in criminals was associated with decreased connectivity between the amygdala, a subcortical structure of the brain that processes negative stimuli, and the ventromedial prefrontal cortex" (Brogaard 2012). And Harenski, "functional neuroimaging has identified brain regions associated with voluntary regulation of emotion, including the prefrontal cortex and amygdala.[...] Reduced amygdala activity might be particularly associated with the affective component of psychopathy" (Harenski 2011, 9). Blair, "moral emotions implicated in amygdala and ventromedial prefrontal cortex, when it is dysfunctional there is significant chance of psychopathy" (Blair 2007, 390-392). And Moul:

More recently, research into the genetics of psychopathic and antisocial personality disordered populations has suggested that serotonin may play a role in psychopathy specifically (demonstrated that individuals with greater expression and function of the serotonin transporter gene (5-HTT; a gene that

codes for a protein responsible for the removal of serotonin from the synaptic cleft) show, similar to psychopathic populations, less amygdala activation when processing emotional facial expressions in comparison to individuals with less expression of the gene. (Moul 2012, 790-791)

Along with the Amygdala, other neural loci have been identified as likely factors in the psychopathic individual's incapability of emotional processing. The fist and most important is the Orbitofrontal Cortex (OFC), which is "involved in the modulation of reactive aggression, which is physical violence elicited in response to frustration and/or threats" (Mitchell 2011, 872). The OFC and Amygdala are the main centers of attention for a neurological cause of psychopathy, but recent research has indicated that there may also be poor interhemispheric communication, namely, deficits in the ventromedial prefrontal cortex, physical damage, such as lesions, to the corpus collosum and posterior hippocampus (Reidy 2013; Mitchell 2011; Pickersgill 2011; LaBrode 2007).

In a study concluded this year, researchers tested 80 prisoners to gauge their levels of psychopathy. Under a functional MRI, the prisoners were shown pictures of people being intentionally physically abused. Those who scored highest in psychopathy showed significantly less neural activation "in the areas of the brain involved in emotional reactions, social behavior, and decision making," such as the amygdala, than those who scored lowest in psychopathy (Nicholson 2013). Interestingly, subjects that tested high in psychopathy also showed significant activity in the insular cortex, which is highly involved in emotion and self-awareness (LaBrode 2007). Researchers suggested that this could be a result from the psychopath imagining *themselves* in pain. In a yet unpublished study in which participants were told to imagine the painful photograph happening to someone else, "those scoring high in psychopathy had a lesser reaction" (Nicholson 2013). Thus, it appears that the psychopath is able to relate to pain, so long as it is his own.

3. PHARMACEUTICAL APPROACHES TO TREATMENT METHODOLOGY

Research identifying neural loci with emotional output is only in its embryonic stage and so far does not yet clearly reveal a precise set of neural regions. But despite the etiological complexities, researchers are now becoming fairly optimistic about possible treatment methodology for individuals with psychopathy. Treatment

methods so far have been unsuccessful, but Beech, Polascheck, and Daly write that because the psychopath is quite unique in his mental dysfunction, it has been traditional treatment *methods*, not treatment *itself* that has failed. Many treatment methods have been poorly planned, intrusive, and unethical in today's standards, making it unsurprising that the individuals with psychopathy have became *worse* psychopaths post-treatment. But many have written that there are, so far, a number of known pharmaceutical medications that have been effective in treating uncontrolled behavioral symptoms, among them aggression and impulsivity.

Selective serotonin reuptake inhibitors, or SSRIs, such as Prozac, "are agents that inhibit the reuptake of serotonin as part of a more widespread effect on neurotransmitters" (Crockett 2010). Serotonin, Crockett and Clark explain, "Is richly involved in the biology of social behavior. [...] The serotonin system densely innervates structures previously implicated in moral judgment and behavior, including the ventromedial prefrontal cortex insula, and amygdala" (Crockett 2010). A common explanation for this is the relationship between serotonin and the promotion of control over emotional impulses, particularly those that are violent. Perhaps most importantly for individuals with psychopathy, serotonin has recently been found to have involvement in "enhancing expectations of averse outcomes," suggesting that serotonin actively works to discourage antisocial behavior, such as harming others (Crockett 2010). While the research in pharmacotheraphy is not a widely researched subject, there is, nevertheless, reported success when it has been coupled with new and unique approaches to psychopathy.

4. MORAL RESPONSIBILITY

In a provocative and persuasive paper, philosopher David Shoemaker writes that psychopaths "may be criminally responsible [for their actions] but not, in an important way, morally responsible" (Shoemaker 2011, 100). He admits that this is a highly provocative suggestion, and it is one that I shall use to suggest that even with treatment that alleviates all known symptoms, the individual with psychopathy cannot *become* morally responsible for his actions. I do not wish to argue either way whether or not untreated psychopaths have moral responsibility, though I have and will suggest that there is reason to believe they do not, I simply wish to make the suggestion that psychopaths cannot gain moral responsibility if they do not have it, and if they do have it, can only lose it with proper treatment—which would involve pharmaceutical medication, if we have stipulated correctly that the brain itself must

be changed. Before we discuss this possibility, however, a clarification on what is meant by moral responsibility.

Taken very generally, individuals who are morally responsible for their actions are praised or blamed for two reasons. Either they are praised because they perform a morally significant action or they are blamed for refraining to do what would have been a morally significant action. Note, however, that the converse is also true; namely, praised for refraining in certain situations or blamed for acting. Eshlemen and Fischer provide the most succinct version of moral responsibility, viz., one that is composed of two-parts: accountability and attributability. They write, "Moral responsibility as accountability entails a warranted belief in an agent's capability to govern her actions in a way that they accord with social norms and expectations. Moral responsibility as accountability is a social notion that implies a full membership in the moral community and that the individual is praiseworthy or blameworthy for her actions" (Eshleman 2009; Fischer 1999, 95). For example, if my cat knocks over my prized crystal vase, my indignation seems to be unwarranted because he did not act from a reference to right or wrong, nor from insidious motives. My jealous, rightly-minded, nonpsychopathic friend that destroys my crystal vase because he does not want me to enjoy or profit from it, would justly be the object of my resentment and moral indignation (Eschleman 2009).

Others have formulated moral responsibility in slightly different, but altogether similar ways. For example, Glannon writes that being morally responsible requires "requires the capacity to critically reflect on and revise or reinforce his motivational states and thereby come to identify with them as the springs of his actions" (Glannon 2008). Thus, moral responsibility can be roughly conceptualized either in *attributability* and *accountability*. If an agent's actions result in certain ends from freely chosen means, through what Glannon may call a "deliberative" process, they belong and are *attributed* to that person. Moral responsibility as *accountability* simply means that a moral agent is capable to conform her actions in a way that they are governed to general social norms and expectations, i.e., he can recognize or accept *that* there are certain social norms a violation of which could be considered immoral. A fully morally responsible action, then, must have both accountability and attributability; that is, there must be both a general recognition of the accepted external social norms and expectations as well as a well-functioning internal cognitive function that allows for the most maximal amount of self-determination.

5. PSYCHOPATHIC MORAL AGENTS?

Many philosophers have argued that no matter how pathological a psychopath may be, he is nevertheless morally (and criminally) responsible for his actions, no less because there does not seem to be any indication that his reasoning faculties are faulty. In other words, he knows what is right and wrong, but simply "doesn't care" (Cima-Knijff and Hauser 2010). However, the neuroscience behind such claims is far from conclusive. I want to argue that in some cases, particularly in the most extreme cases, individuals with psychopathy are not morally responsible for their actions because the neural structures of the brain make it impossible to act from freely chosen means. In order to suggest that some individuals with psychopathy may not be held morally responsible, there ought to be some ground or basic level of stipulation to which we can separate those who can be held morally responsible for their actions, and those the cannot. Because of the complexity and breadth of the topic, which covers neuroscience, philosophy, and many subsections of psychology, especially in the theoretical realm, I will not be able to defend this idea adequately here. Rather, I, like Shoemaker, will "wave my hands vigorously for a bit, toss out some stipulations, and hope to begin to make a not entirely implausible presumptive case for this position" (Shoemaker 2010). Unlike Shoemaker, however, I will make the further suggestion that he does not make, namely, that even though we should have serious doubts that psychopaths, with proper treatment, can hope to gain moral responsibility, i.e., that moral responsibility can emerge from proper treatment methodology. In the following section, then, I will only suggest that it is still reasonable to think that some psychopaths may not have moral responsibility in certain (particularly more extreme) cases.

Before we get into the argumentation, consider the following quotations from two convicted criminals with psychopathy.

Tommy Lynn Sells, now on death row in Texas and classified as one of the most violent and dangerous offenders in the United States, told an interviewer, "To look at me is to look at hate. I don't know what love is. Two words I don't like to use is 'love' and 'sorry.'" (*The Mind of a Psychopath* 2010)

Ted Bundy has been quoted as saying "I don't feel guilty for anything. I feel sorry for people who feel guilt." (Brogaard 2012)

Blair (1995) conducted a study that found that psychopaths were less able to "distinguish between moral transgressions" like arbitrarily harming another person and "conventional transgressions," like poor table manners than nonpsychopaths (Blair 1995). If this is true, and if the distinction is strong enough, then perhaps we can imagine the psychopath committing moral transgressions (like harming others) the way nonpsychopaths routinely and without emotion break convention, like driving the speed limit. It is suggested that this distinction, however, is not one that is likely freely chosen, a distinction that cannot be grasped because the psychopathic brain itself is not structured to grasp it.

Moral insensitivity is generally acknowledged to be a result of the psychopath's predisposition to emotional impairments, such as a lack of empathy. However, Harenski and Kiehl posit that the psychopaths "have wide-ranging abnormalities in emotion processing" (Harenski 2011, 299–301). For example, an individual with psychopathy is, on the one hand, more likely to "engage in behaviors that are dangerous to themselves and others." On the other hand, poor self-regulation for affects may justify the psychopath's belief that a moral transgression ("this person gets what they deserve") was itself justified. If we accept that psychopathy is at least partially genetically or biologically determined, then, as Berit Brogaard argues, "one would expect some abnormality in the brain," which would be the "immediate source of psychopathic traits" (Brogaard 2012). It therefore seems implausible that some psychopaths, with biological predispositions that make him unlikely or unable to refrain acting humanely, could be a viable, robust moral agent.

To say that an individual with psychopathy is not a morally responsible for certain actions, however, does not then mean that they are morally irresponsible. A morally irresponsible person would still maintain certain cognitive functions that a psychopathic individual would not have. Among criminal psychopaths, then, in which it seems evident that the worst neural dysfunction exists, we should rather consider them morally nonresponsible. A morally nonresponsible agent, such as criminal psychopaths, significantly lacks enough cognitive ability that his or her otherwise immoral actions do not render blame. In order for otherwise immoral actions to not be blameworthy, it seems as if the regular rules of moral responsibility simply do not apply. For this paper, it seems sufficient to say that there is little doubt that under certain circumstances, the individual with psychopathy fails the test of *attributibility*. As we have seen, in many cases, the individual with psychopathy, especially criminal psychopaths, do not appear to have freely chosen the *means* to certain ends. Even if it is not *impossible* for the some psychopaths to refrain from

acting in such violent ways to a certain end as a result of biological and genetic predispositions, it does seem *unreasonably difficult*, given the complexity and amount of damage to the brain to expect that they are a vibrant moral agent in the way nonpsychopaths, or even bad cases of individuals with antisocial personality disorder, may be.

6. THE SEEMING IMPOSSIBILITY OF A COMPLETELY MORALLY RESPONSIBLE PSYCHOPATH

If we suppose that treatment methods for psychopathy will continue in the years to follow, that advancements in neuroscience will show more accurate and detailed maps of the "disturbed minds," that rehabilitation methods will be refined and sharpened, and that developments in pharmaceuticals will be made and connected to certain parts of the brain that affect psychopaths strongest, it is not entirely inconceivable that individuals may be fully treated of their psychopathy. I do not want to say, however, that the psychopathic individual will behave perfectly under these circumstances; that is not the point. The idea here is that the psychopath is treated in such a way that the most morally relevant factors seem to be mitigated to a significant degree. This would entail significant improvement in feeling emotions such as guilt, remorse, and empathy. It would also mean a reduction in impulsive anger. This would not necessarily mean that psychopaths are nonmanipulative, nonnarcissistic, nongrandiose, or noncharming, and so on. Indeed, it seems like people with merely these traits can be considered "jerks," but they are hardly incapable of moral responsibility. A lack of certain emotional traits, as we have seen, set the psychopaths, and especially the criminal psychopath, apart from all the other individuals with antisocial personality disorders, and may be the very foundation of their psychopathy.

Nevertheless, what makes some individuals with untreated psychopathy incapable of moral responsibility is precisely his lack of freedom in certain actions otherwise considered immoral. He is unable to "control" certain emotions like anger, while, on the other hand, he is totally lacking in other emotions such as empathy, guilt, or remorse, which, even on a basic utilitarian model, could stop him from performing certain immoral actions. Under treatment, namely, under an idealized pharmaceutical treatment, in which the patient is *able* to feel guilt, empathy, and remorse, as well as an ability to control what was an overwhelming sense of range and aggression, the individual with psychopathy may be less likely (perhaps even

much less likely) to perform certain immoral acts, such as arbitrary murder. My worry here is that, in a certain fundamental sense, the individual with treated psychopathy still does not have attributability (freely chosen means) to his actions, where it does seem they have accountability (a notion of socially acceptable moral rightness and wrongness); however, to have moral responsibility, both factors must be present.

The treated psychopath appears to have moral accountability because he appears to be able to conform most of his actions to certain social norms and expectations—he does not spend his days arbitrarily murdering, robbing, or raping. When it comes to attributability, in which his actions must be freely chosen means to a certain end, it becomes trickier. A nonpsychopathic individual does have certain predispositions—she may be more or less grandiose, may feel more or less empathy, guilt; she may be more aggressive than another person, or have a high sense of glibness—and in this way, admittedly, is not completely free to choose certain means. However, her brain is not so distorted in such a complex manner that she becomes inhibited by her own neural structure-she may be prone to anger, but this is something she can "get over" (by counting to ten, or by other somewhat trivial means). The treated psychopath, however, is only conforming to certain standards because he, like the framework of a building, is being supported by certain temporary changes to the brain. There is no indication that a psychopath's brain can be changed *permanently*, and thus without constant assistance, he will slide back into the psychopathic lack of emotions we fear and which may lead to other psychopathic symptoms. But the reason some (as I have argued) untreated psychopaths and all treated psychopath do not have moral responsibility is a lack of attributability, but for different reasons. One cannot point to the treated psychopath with much confidence and say that he has freely chosen to choose some means to an end, at least in some significant cases. Rather, depending on the prescription, the strength of the dose, how strong the psychopathy is, and so on, the moral pseudoagent is really the pharmacist, who calculates how empathetic the psychopath should be, how much guilt he should feel, how much remorse, and how much anger should be felt. In this way, the source of these emotions is outside the body, in another person's diagnosis. Like a mechanic calculating the speed and internal diagnostics of a robot, the treated psychopath can only feel as much emotion as he is prescribed, as much as his amygdala, OFC, and other neural functions have been given.

I also want to briefly discuss the converse situation to psychopathic moral

responsibility—and it may be a more troubling idea. In the first instance, the psychopath (as I have suggested) has no real moral responsibility because he, in certain situations, is not free to choose the means to his actions, not in any real sense. Under treatment, any means he 'chooses' to make are really predetermined by the pharmaceuticals prescribed to him. In the second situation, which has been widely argued, in which the psychopath *has* moral responsibility as an implication from treatment. I have not come across anyone who seriously argues that psychopaths are not mentally ill, nor that they should not receive some form of treatment (of which the only effective method is biological combined with rehabilitation methods), or that psychopaths do not need nor deserve some treatment. Thus, those who argue that psychopaths have moral responsibility must also argue that they ought not receive treatment, lest they *also* lose moral responsibility.

7. AN OBJECTION

In a certain sense, one could reasonably say of the individual with psychopathy that he is simply weak-willed. He has an end in mind, knows that there are certain means to that end, which are considered wrong by the society at large, yet performs the action anyway because he *seemingly* cannot resist the temptation. One example that recently arose¹ is the situation in which a person simply cannot resist eating a donut, for he does not have sufficient willpower to walk away. We can suppose that the person is freely able and has a right to eat the donut (she has purchased them, for example) and that the person may or may not have reasons to eat or to refrain from eating the donuts. If the person weighs her options, thinks that it is better to refrain from eating the donut, yet does so anyway, perhaps we can say that in a certain sense she is not totally free in choosing her actions—she seems to lack what we called "attributability"; i.e., certain freely-chosen means to reach certain ends. However, this situation seems to refer to what Gilbert Ryle called a category-mistake, for deciding eating a donut (at least in the above configuration) does not seem to be described as a situation in which *moral* responsibility is required. Therefore, let us consider a more severe example in which, it seems, moral responsibility is more obviously at issue.

Consider the case of William Heirens. Heirens, deemed the "Lipstick Killer,"

^{1.} Thanks to Dr. Jami Anderson, Dr. Simon Cushing, and Dr. Stevens Wandmacher for this suggestion and example.

because after he had killed one of his many victims, hastily scribbled the words "For heaven's sake, catch me before I kill more. I cannot control myself" on the wall next to the victim in lipstick (Martin 2012). If we take Heirens at his word, we can apply our two requirements of moral responsibility to his case. Recall that both are needed for a morally responsible agent. The first, accountability, maintains that Heirens must have known that murder was socially unacceptable. Due to his pleas to stop his crimes, this seems to be the easiest to assume. Attributability, on the other hand, requires that Heirens, if morally responsible, was able to freely choose his actions from freely chosen means. Given what little psychological information we have in Heirens' case, it seems impossible to say whether or not he, like the severe psychopath, lacked sufficient amount of cognitive capability such that it would be impossible or extraordinarily difficult to refrain from committing the crimes. Here it seems reasonable to introduce what I will call the cognitive stipulation to the attributability argument. The cognitive stipulation states that the brain itself must be dysfunctional to such a point that it prohibits or disallows the person to refrain from committing the most heinous crimes if or when he has the inclination to do so. Thus, for Heirens, in order to fit the cognitive stipulation, must have had a sufficient amount of cognitive dysfunction that attributability would be impossible or extremely unlikely.

Iforesee a complaint that may arise with this stipulation, namely, a complaint that states that those who lack moral responsibility (because of the cognitive stipulation) may not all be severe psychopaths, for the cognitive stipulation may apply to them for other reasons. This may be true (and I would say certainly is true), but my only hope in the present work is to suggest that it is likely that the *severely psychopathic individual* may not have full or any moral responsibility for their crimes. There may be many other beings that fail the test for moral responsibility and the cognitive stipulation (and Heirens may be a case even if he was not psychopathic), but it does not weaken my argument to say that psychopaths *and other* similarly cognitively dysfunctional beings do not possess any or much moral responsibility.

The severe psychopath is therefore a quite unique case, insofar as he, built into his cognitive apparatus (before any decisions are made) a series of symptoms for which attributability becomes impossible. Far from simply being able to control his will, there are a host of symptoms that are working against the free deliberation of the psychopath. Thus, I simply wish to suggest that the psychopath, in his unique case, is sometimes exempt from moral responsibility because he is incapable of attributability. As for the Heirens case, however, we are forced to wave our hands at a conclusion, for we simply do not possess sufficient psychological information.

8. CONCLUSION

What I have attempted to avoid in this argument is to say that all psychopaths should be completely absolved of any moral responsibility for their actions. Rather, we must remember that both psychopathy and moral responsibility comes in degrees. It is very troubling to consider, however, that in the most extreme cases of psychopathy we will find more fundamental dysfunction in complex parts of parts of the brain, and thus, it seems to suggest that the worst psychopaths that commit the worst crimes are the least morally responsible for their actions. Of course, this is not to say that all of the most psychopathic individuals will commit the worst crimes, or that the least psychopathic individuals will commit the least bad crimes, or that any psychopath is *determined* to commit any crime at all. My primary concern is the notion that criminal psychopaths could acquire more moral responsibility, especially if we decide (through brain scans, psychological tests, and so on) that he is dysfunctional in such a way that he is mitigated from most or all moral responsibility. Simply supplying a criminal psychopath to behave better does not make him any more morally responsible for his actions, since it still does not seem to allow him to act from a place of deliberation or from free choice and action, whereas a nonpsychopath seems to be able to do so, at least to a much higher degree. I also do not want to suggest that psychopaths should *not* receive treatment, but wish to warn that whenever we seek out pharmaceutical methods to therapy, we are likely to lose some amount of responsibility. I have not attempted to say at any point that a psychopath should not be held criminally accountable for his actions, however, and would certainly suggest that a combination of mental health treatment and civil punishment be appropriate for him (though this is pushing the limits to this paper). However, the psychopath is a unique case, and many types of punishment and mental health treatment, namely, those that have already been used in ineffective ways, will only enhance the problems associated with psychopathy. The trick is to seek treatment methodology that will enhance social functionality and improve behavior—though, if effective treatment involves invasive drugs, as it likely must to alter the brain itself, we may not be able to confidently say that the psychopath has moral responsibility for his actions. Further research can question the interconnections of the psychopath's reasoning faculty, which appears to be unaffected by his psychopathy and his affects and emotions and to study the

etiology of ruthless instrumental reason that is not furnished by certain "moral" emotions.

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