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Neurosurgery for Psychopaths?
The problems of empathy and neurodiversity

Erick Ramirez

Dietmar Hübner and Lucie White argue, persuasively, that deep brain stimulation (DBS) would be unethical as a treatment for imprisoned psychopaths. Although I agree with this conclusion, I wish to extend their argument in two directions. First I argue that there are reasons, grounded in empathy's role in the acquisition of moral knowledge, to doubt that psychopaths have moral knowledge at all. Since Hübner and White characterize psychopathy as a problem of moral motivation, empathic problems give us reason to believe that the issue is deeper than this. Call this the problem of empathy. This problem suggests that the application of DBS would not provide psychopaths with moral knowledge therefore DBS fails as a treatment for psychopathy. Second, although the authors characterize psychopathy as a disorder only for the sake of argument, I argue that we should resist granting even this concession. I claim that considerations based on an appreciation of human neurodiversity lead us to eschew viewing psychopathy as a disorder. In sum, I have doubts about whether psychopathy is a disorder at all and, even if it were a disorder, that DBS would not function as an effective treatment for it.

The problem of Empathy

Hübner and White characterize psychopathy primarily as a problem of moral motivation. They directly argue that “a psychopath’s diminished emotional involvement does not impair her ability to make moral judgments but rather her motivation to act accordingly” (2016). I pause here to note that this way of speaking about moral knowledge is exceedingly controversial and requires that Hübner and White take sides on unresolved metaethical debates. Although Hübner and White are not alone in characterizing psychopaths as having moral knowledge but lacking moral motivation, it is important to see why some philosophers resist this picture (Ramirez 2015).

In a series of experiments, Larry Nucci and Elliot Turiel created an experimental paradigm to explore the development of moral knowledge and moral concepts among young children (Nucci & Turiel, 1978). They discovered that, as early as 39 months, children were able to distinguish between conventional and distinctly moral. When the same experimental paradigm was applied to psychopaths, it appeared, to some at least, that they were unable to mark this distinction clearly or consistently. The nature of the moral vs. conventional norm distinction and, indeed, the interpretation of the data as showing that psychopaths are not able to mark the distinction, are subjects of longstanding dispute among philosophers and psychologists (Ramirez 2013). I bring it up here to note that, in suggesting that psychopaths have moral knowledge but lack moral motivation, Hübner and White commit themselves to a tendentious view of moral knowledge. David Brink (1997) frames the issue in this way:

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> [s]ometimes the debate between internalists and externalists [about moral motivation] depends on the two employing different criteria for identifying judgments as moral judgments. Often, internalists employ functional criteria—roughly, those judgments are moral judgments that the appraiser treats as fundamentally important—whereas externalists employ contentful criteria—roughly, those judgments are moral judgments that concern certain sorts of matters, for instance, having to do with the welfare of affected parties. (21)

In applying externalist criteria to psychopathic moral agency, Hübner and White ignore intriguing evidence for the way that empathy appears to shape moral knowledge and moral concepts.

Empathy is best understood as a family of different capacities ranging from cognitively complex 'mindreading' to the operation of non-conscious, mirror-neuron mediated, emotional contagion (Goldman 2011). What I wish to suggest is that psychopathic moral dysfunctions are better explained as stemming from a lack of moral understanding and that this lack of moral understanding can be traced to the psychopath's impaired capacity for empathic contagion. Empathic contagion plays an especially important role in early childhood development during the acquisition of emotional concepts. Emotional concepts (including moralized emotional concepts) are not innate, they must be learned (Barrett 2006; Ramirez *forthcoming*). What psychopaths miss out on, as a result of their empathic deficit, is the ability to learn the affective content of emotional and moral terms. In doing this, they fail to learn a critical component of the meanings of these concepts. This explains, for example, why psychopaths fail to report feeling much guilt over their transgressions. If the problem was merely one of moral motivation, then this lack of guilt would be difficult to explain. Guilt, on most accounts, only requires that subjects sincerely judge that they have done something *wrong*. If Hübner and White are correct about psychopaths access to moral knowledge, then they ought to be capable of such judgments and hence ought to feel guilty, but they do not. If I am right about the problem of empathy, then psychopaths do not genuinely understand the concept of moral wrongness (though they can use the words in a sentence). As a result they are not able to judge that they have acted wrongly, sparing them from guilty feelings but also from moral understanding (Ramirez *forthcoming*).

Given the calcified nature of adult emotional and moral concepts, I have serious doubts that DBS, by itself, would provide any form of treatment for psychopathy once their understanding of moral concepts is better understood. DBS may expand the range of affective experiences open to psychopaths by establishing neurotypical connections between affective and cognitive brain regions. However, a pscyhopath's emotional and moral concepts would have long stabilized by the time DBS were utilized as a treatment (especially if we were applying DBS only to adult forensic populations). If the goal of DBS is to change the structure of the psychopath's moral concepts and therefore result in moral behavior, then it is the wrong device to achieve these ends.

Neurodiversity

To their credit, Hübner and White caution that “some scholars doubt that psychopathy should be classified as a “disease” or “disorder” in the first place, rather than as a set of traits and behaviors that may be undesirable from a social point of view, but that do not imply any kind of health impairment on the side of the subject” (2016). I want to pursue this line of thought as a way of furthering Hübner and White’s critique of DBS as a treatment for incarcerated psychopaths. This line of thought is grounded in a set of ideas that have become associated with a burgeoning neurodiversity movement.

The neurodiversity movement is premised on the reasonable assumption that human beings enter the world with different ways of cognizing and that these differences are not dysfunctional relative to other, statistically average (i.e., neurotypical), forms of cognizing. Although the neurodiversity movement began with a push to remove autism spectrum disorder from the Diagnostic and Statistical Manual of Mental Disorders, it has grown to include other modes of cognizing labeled as dysfunctional including dyslexia, attention deficit and hyperactivity disorder, personality disorders, and even psychopathy (Anton 2013). Although persons with autism, for example, tend to understand and value social relations differently than neurotypical persons, considerations of neurodiversity demand that these differences not ground stigmatizing normative claims about autism. In much the same way that disability rights activists challenge medical norms of disability, neurodiversity advocates push back against the stigmatization that comes from having one’s way of being in the world seen as evidence of psychiatric dysfunction. In this sense, neurodiversity movements are committed to valuing pluralism with regard to human cognition.

Insofar as Hübner and White characterize psychopathy as a congenital, or acquired, condition defined in terms of differences between how neurotypical persons and psychopaths relate to moral norms, then psychopathy is a good candidate for neurodiversity. Psychopathy, in this sense, represents another way that human beings cognize the spaces of reason and value and these differences should not, without good reason, be pathologized.

Do we have such good reasons? I would suggest that we do not based on two considerations. The first is grounded on medical conceptions of mental disorder and dysfunction. Hübner and White cite Louis Charland (2007) to suggest that treatments for psychopathy may fail given the moral commitment involved for them to work. However, Charland’s argument is not merely that treatments for psychopathy are ineffective but, instead, that the *nature* of this treatment actually tells us something about the *status* of the condition. Charland argues that psychopathy (and indeed all Cluster B personality disorders) are not medical kinds but instead what he calls “interactive moral kinds” (67): they are tools for pathologizing those who behave in ways we consider immoral. Given the ostensively value-neutral enterprise of medical pathology, it is a mistake to understand psychopaths as mentally disordered on these grounds. Additionally, since it is possible for psychopaths to function well, even flourish, in human societies, their differences with regard to neurotypical moral cognition should not lead us to make assumptions about underlying psychopathic dysfunction (Anton, 2013). In short, we should resist seeing

psychopathy as pathological for the same reasons we should resist seeing autism as pathological. Individual psychopaths may act badly but this need not imply that they are essentially disordered as a result of their psychopathy.

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