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The psychopathology of sin

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'The psychopathology of sin' is an essay by the late Dr John Ellard reproduced from the book *The Anatomy of Mirages: a Psychiatrist Reflects on Life and the Mind*.*

Dr Ellard, revered former Editor of *Modern Medicine of Australia* and *Medicine Today* and a distinguished psychiatrist, wrote many essays in the 1970s, 1980s and 1990s on society's most controversial and vexing issues. These were published in various journals including *Modern Medicine of Australia*, and also collected together and published as books. The essay 'The psychopathology of sin' originally appeared in the March 1985 issue of *Modern Medicine of Australia*.



Every community becomes concerned about the activities of its law breakers; few of us are untouched by their presence. Neither burglar alarms nor Royal Commissions seem to stop them. Muddled thinking will not help either.

It is commonly believed that a person who indulges in criminal behaviour must be suffering from some sort of psychological illness or he would not have done what he did. As an extension of this, if the criminal behaviour is sufficiently startling – for example, murder – then the person must be mad, even if it is a subtle madness, undiscerned by psychiatrists. There are two corollaries of this: the first is that psychiatrists should be able to treat the offender and fix him, and the second is that if they find no sign of mental abnormality, there must be something wrong with the psychiatrists. So far no harm is done, but when the next step is taken and it is argued that as a consequence of these propositions, some or all criminals should be given psychiatric diagnoses and treated accordingly, it is time to cry halt.

Most treatments are harmless enough, but the danger exists that men and women will be incarcerated not as punishment, nor because it will bring their criminal activities to a temporary end, but on the pretext of doing them good. If this happens then gross injustices may arise, even in this country. Thus, I recently saw a man who had been confined to a psychiatric hospital by law for three years (so far) because of his drunkenness, which had harmed no one but himself. Everyone has a right to go to hell in his or her own way; if he wishes to drown himself in an ocean of beer then surely that is his business.

On the other hand, criminal behaviour gives no immunity against psychiatric disorder, and common humanity decrees that prisoners should have the same relief from suffering as everyone else. The court, in sentencing them to loss of liberty, does not also sentence them to deprivation of medical care and (for example) in the state of New South Wales it is a statutory duty of the Commissioners of Corrective Services to provide proper medical attention for all those under their control. No doubt other communities place the same obligations upon those of equivalent office. If the treatment not only benefits the sufferer but also removes the criminal behaviour, there is a bonus for all concerned.

Criminality

The relationship between medicine and criminality is complex and of some antiquity. This essay is a brief review of some of the theories which have been advanced in recent times. It should be noted that it is much better to speak of unlawful behaviour, rather than of criminal behaviour. The term criminal – whether adjective or noun – carries with it the suggestion of wickedness:

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* Ellard J. The anatomy of mirages: a psychiatrist reflects on life and the mind. Sydney: University of New South Wales Press; 1994. p. 207-217.

tomy of the Criminal Mind



is such a thing as criminality, and I exhibited it, I doubt that I have either improved or deteriorated much in this respect as the years have passed.

Criminality then is not merely a dubious concept but also a dangerous one – dangerous because it is muddled, because it does not distinguish between the trivial and the significant, and most dangerous because it implies something particular, permanent and bad about all those who break laws.

"Criminality ... implies something particular, permanent and bad about all those who break laws."

In spite of its deficiencies, there is still a general belief that there is a special category of wicked people, clearly definable, who require identification so that they can be given particular attention, presumably whether they like it or not. Since being acquainted with the absurdities of history may lead us to discover our own, it is worth examining some of the views advanced in recent years.

it is easy to find people who will say that not only are all criminals bad people, who need to be hammered down into inactivity, but also that 'once a crim, always a crim'. Armed with these two propositions, their proponents find it easy to construct a penal system from which Adolf Hitler would learn a thing or two. There is also a touch of ambivalence around – those newspapers which shriek most shrilly for a harsher penal system would be the first to howl for the scalps of the prison administrators if they were to believe that such a state of affairs was coming about.

"... most of the trouble has been caused by the invention of special terminologies."

In the state of New South Wales, at various times, one could acquire a conviction not only by acts such as murder and rape, but also by activities such as having sexual contact with another adult of the same sex in one's own bedroom, having a glass of wine at a picnic in certain public parks and being in possession of an unexpurgated copy of *Ulysses*. The point is if one avoids the term 'criminal' and the odium that goes with it, it becomes clear that what is lawful and what is not may merely reflect the confusions, moral views and sexual anxieties of the legislators of the time. Change the lawmakers and laws change; the behaviour remains the same. My copy of *Ulysses* is the same copy of *Ulysses* that I had 40 years ago, and I am the same person. My behaviour, formerly unlawful, has become lawful. If there

The beginning of the muddle

The 200th anniversary of the establishment of the penal colony of New South Wales is almost upon us, so it is appropriate to begin with some of the controversy which surrounded the involuntary transportation hence of our ancestors. Theoretically sophisticated and socially concerned ahead of their contemporaries, the phrenologists wrote to the English Colonial Secretary of the day, Lord Glenelg, protesting about the basis upon which those to be transported were chosen.¹ Their position was clear; phrenology was a science and the person's innate criminality could be measured with a pair of callipers. Therefore, all those who were to be transported should be examined, so that those with a high level of criminality could be excluded. If this were not done, and all the worst degenerates were sent to New South Wales, then the colony would become a cesspit of intractable depravity. A decade before that they had been down on the docks measuring heads and advising the ships' captains about the propensities of those whom they were about to embark. In the long run no one listened to them. If you live in New South Wales you will have to look about you to decide for yourself whether or not they should have been heeded.

At the same time Dr J. C. Prichard of Bristol described a series of cases under the term 'moral insanity' and 'moral imbecility'.² Whereas the phrenologists saw criminality as an inevitable consequence of one's hereditary physical constitution, Prichard was firmly of the opposite view; for him it was 'a form of mental derangement'. Prichard's choice of the term 'moral' was unfortunate. He used it to mean 'mental', as distinguished from 'physical'. It did not specifically refer to morality in the sense in which that word is used now: it subsumed all psychologically

determined behaviour, including wickedness. Prichard knew what he meant, but as the years passed almost everyone else forgot.

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Both the physical and mental theories were long-lived. Since phrenology is in part quantitative, and therefore subject to refutation, it has been less tenacious than Prichard's moral insanity, which lives on under other names. Indeed, since the latter is a verbal construct and there is no absolute test of its validity, it may live forever. Do not think that it was without its categories and subtleties; for example, moral imbecility was said to be of four types, contentious, mendacious, sexual and skulking. Nor should you believe that I am describing the dawn of history; the prescribed textbook of psychiatry at the University of Sydney in 1948 offered exactly that classification.³

Somatic theories

Let us first survey the path followed by those who saw criminality as an inevitable consequence of one's body being a particular shape. Almost a century ago, Havelock Ellis published *The Criminal*.⁴ He described moral insanity, using that term, although he acknowledged a preference for moral imbecility. Nevertheless his central theories were phrenological; he attributed to Aristotle the initial observation in an association between the shape of the head and criminality, and also the recognition of the 'hereditary character of vicious criminal instincts'. Dr Gall was his mentor and he described him as the 'founder of the modern science of anthropology'. I have said that such men are dangerous: Ellis quoted with approbation Galen's opinion that 'when a criminal is criminal by nature he should be destroyed, not in revenge, but for the same reasons that scorpions and vipers are destroyed'. Ellis reviewed in detail the literature

concerning the shape of the skull, the general appearance of the face and other physiognomic details indicating criminality. Further, he followed Lombroso in the belief that different forms of criminality are associated with different physiognomies. You will not be surprised to learn that in his view some of these appearances are characteristic not only of criminals but also of the Negroid and Mongolian races, inferior creatures to which they were presumed to be atavistically related. Appendix D of Ellis' book is devoted to case reports. The fourth gentleman discussed achieved the following diagnosis: Advanced Physical and Psycho-Physical Degeneration; Phrenasthenia; Moral Idiocy; Instinctive Criminality. I cannot refrain from quoting the formulation.

This is the case of an instinctive criminal, a person fatally and immutably impelled to vagabondage, theft and violence. He bears the characters physical and psychophysical, of degeneration, of aberration, of constitutional abnormality, sufficient for recognition. Especially noteworthy are the lambdoidal depression, the marked plagio-cephalia and plagio-prosopia, the superior prognathism, and the inferior dental irregularities, the thoracic asymmetry, the pallid complexion, the hypoaesthesia, the weakness and perversion of some of the special senses, the unrestrained onanism, the predominant love of vagabondage, the furious and animal-like anger, the destructive tendencies.

Nor surprisingly he was regarded as incorrigible. The court acquitted him. I do not know if Ellis and his followers were called to court as expert witnesses. They were the experts of the day – reading nonsense of this kind may help us to understand why the law regards experts without awe, and may even encourage us to think anew about some of our own categories.

I have paid some attention to Havelock Ellis because quite certainly he was a brave and intelligent man and in many things well ahead of the opinions of his day. Others mined the same lode. Lombroso is perhaps the best known of them.⁵ He was even more detailed in his measurements than was Ellis and was more committed to atavism as an explanatory

principle. Thus he observed that prostitutes were fat, because being degenerates they were atavistically related to women of inferior races who were also fat.

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Another quotation may convey the flavour better: 'In female animals, in aboriginal women, and in the women of our time, the cerebral cortex, particularly in the psychical centres, is less active than in the male. The irritation consequent of a degenerative process is therefore neither so constant nor so lasting, and leads more easily to motor and hysterical epilepsy, or to sexual anomalies, than crime.' Thus prostitutes were more atavistic, and female criminals more degenerate – but being women they were not even effective at being degenerates.

It died hard. In the 1920s, followers of Kretschmer's typology sought to connect particular crimes with a particular habitus and it is only 30 years or so since William H. Sheldon was arguing a similar proposition. At the same time one of Sydney's large commercial organisations employed a phrenologist to advise their personnel department. Even though the scientific pretensions may have been abandoned there are still many people in the community who believe that they can identify criminals by looking at them.

Moral insanity

Moral insanity, moral imbecility and moral idiocy have had a much better run, principally because they have been completely understood from the moment of their invention. Prichard was quite clear: 'In fact, the varieties of moral insanity are, perhaps, as numerous as the modifications of feelings or passions in the human mind. The most frequent forms, however, of the disease are those which are characterised either by the kind of excitement already described, or by the opposite state of melancholy dejection.' Bucknill and Tuke, who quoted him, were sure that misunderstanding of his terminology would

‘occasion much practical mischief’.⁶

‘If moral insanity be only spoken of and recognised when vicious acts are threatened or committed, it is natural that the doctrine of moral insanity should be brought into disrepute or altogether disregarded; and that a very erroneous idea should be attached to its area and limits.’

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They were absolutely correct. Prichard used the term ‘moral’ to mean ‘emotional’ or ‘mental’, rather than ‘physical’; but 78 years later the English *Mental Deficiency Act* of 1913 defined ‘moral imbeciles’ as ‘persons who from an early age display some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effects’. The misunderstanding was complete. Much the same error occurred with Koch’s (1889) term ‘psychopathic inferiority’. Koch used it to refer to a presumed constitutional inadequacy which embraced most psychological disorders.⁷ There were many attempts to clarify it, but no one had much success. Schneider (1923) tried to turn it into a quantitative dimensional concept, using it for those who had particular mental functions which deviated from the mean more than a certain amount.⁸ Henderson (1939) tried to purge the term of its growing identification with wickedness by describing creative psychopaths as well as inadequate or aggressive psychopaths.⁹

Psychopathy

It was all to no avail. The need to attribute mental abnormality to the vicious was irresistible, and Cleckley’s (1945) description of cold, passionless killers as psychopaths proved too strong a stereotype to resist. There had been a general feeling of discomfort about the term ‘moral imbecile’ and it was much easier to find a new name than to examine the concept critically. The 68th anniversary of Koch’s invention saw the report of the English Royal Commission which said in effect that it could

not decide what psychopaths were, but that it would be quite proper to detain all of them for compulsory treatment. The fact that Henderson, one of the chief proponents of psychopathy, stated firmly that no form of intervention touched the ‘huge number’ of psychopaths, seemed an irrelevance to the Royal Commissioners and to those who came after them and drafted the British *Mental Health Act* of 1959. Indeed, the confusion is worse compounded in that Act, for it is laid down that to be a psychopath not only does one require a permanent disorder or disability of mind causing abnormally aggressive or seriously irresponsible conduct, but that it must ‘require or be susceptible to medical treatment’. If Henderson was right then either there are no psychopaths at all or they require medical treatment which happens not to exist.

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The absurdities were so obvious that in 1972 the government of the day set up a Committee on Mentally Abnormal Offenders to sort it all out. But it was caught in one of the better recursive illogicalities of the century. If they found that mental abnormality had no necessary connection with persistently aggressive or destructive behaviour then they were outside their terms of reference, for they were restricted to a consideration of mentally abnormal offenders. They went as far as they could by recommending changes to the *Mental Health Act* which in effect restricted the term ‘psychopath’ to those with an identifiable illness of some sort which would be likely to benefit from treatment.

It has been worth spending a little while on the English experience because it is in a sense the *reductio ad absurdum* of the concept of psychopathy. Until the 1972 Committee, the essence of it was that if you broke the law in an ordinary sort of way you were a criminal, but if you did it in a particularly callous, serious and destructive way, you were a psychopath,

particularly if you showed no remorse for your actions. Criminals went to gaol, psychopaths to hospital, it being acknowledged that this probably served no useful purpose at all.

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Since great minds and learned committees have been pondering these things for a century and half or more, you are entitled to ask ‘Where are we now?’ The most commonly used categorisation of psychiatric illness is that of the *Diagnostic and Statistical Manual of Mental Disorders* (third edition) published by the American Psychiatric Association. It has two relevant categories. The first is 301.7 – Adult Anti-Social Behaviour, one of a group of conditions first categorised in the Clinical Modification of the World Health Organization’s *International Classification of Diseases*, ninth revision. It contains human activities which sometimes come to the notice of psychiatrists, but which are not necessarily associated with a mental disorder. Others in the same category are malingering, uncomplicated bereavement and marital problems. It is self-evident that any of these things could happen to most of us, with distress but without formal disorder. There is no problem about that.

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Going round in circles

Unfortunately, there is also another category, 301.70 – Anti-Social Personality Disorder, which is placed among other undoubted mental disorders such as borderline, compulsive and avoidant personality disorders. The diagnostic criteria are complex and quantitative. In essence one must have nine of 23 possible

markers, two of which – onset before 15 years and continuous misbehaviour – are mandatory. The problem is that the disorder is defined in terms of the person's rebellious and unlawful acts – running away from home, prostitution, lying, not having a fixed address – rather than in terms of a mental disorder as commonly understood. In short, once more we are confronted by a new name for our old friends moral insanity and psychopathy.

The illogicality is clear. If one is to a certain extent dishonest or rebellious, one attracts the lesser label of Adult Anti-Social Behaviour and presumably one does not require psychiatric attention. But if one's illegal and destructive behaviour is sufficiently continuous and reprehensible then one gains the label of Anti-Social Personality Disorder, which carries with it the clear consequence that one has a mental abnormality. Indeed, the more horrifying and aberrant one's lawful behaviour, the more likely one is to be granted a diagnosis than described as a criminal.

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Further, there is no evidence that attempting to make the distinction serves any useful purpose. Michael Craft, one of the principal protagonists of the validity of psychopathy, reported on the treatment of a group of 101 young men at Balderton Hospital.¹⁰ They were randomly allocated to two groups – one essentially psychiatric, with group therapy; the other authoritarian. Each form of management lasted for more than a year. The results were unequivocal; in no respect did the treated group do better than those exposed to an authoritarian environment. Indeed they did worse on measures such as improvement on psychological tests, re-conviction and institutionalisation. Treatment failed; there is no other comparable series known to me which establishes the usefulness of psychiatric treatment for persons of the

kind we are considering – unless they happen to have a psychiatric disorder diagnosed on entirely separate criteria.

To make this clear, let us assume that there is a condition X, which happens to be highly correlated with unlawful behaviour. Let us further assume that condition X can be recognised, say, by inspecting the optic fundus, or for that matter by sigmoidoscopy. Further, let it be assumed that once recognised X can be cured in any way you like without causing detriment to the sufferer – say, by making particular passes in the air over his head. If, further, the cure of X invariably removed the unlawful behaviour, then all would agree that X should be cured wherever it is found, and there would be an argument for curing it no matter what its owner might think about it.

Note particularly that X is not defined in terms of the unlawful behaviour, but is to be recognised only by its own particular manifestations. Since it is an abnormality of this kind it is reasonable to call it a disease, and its removal a cure.

The behaviour is the disorder

The position with regard to moral insanity, psychopathy and antisocial personality disorder is otherwise – they cannot be diagnosed other than by disapproved behaviour, and one cannot say that these things are gone until the sufferer's behaviour has become lawful. The behaviour is the disorder, and the two are not to be separated. It is the essence of circularity to say that since person X fights, lies, sells drugs, fails to pay his debts, walks off his job and neglects his children, he has an anti-social personality disorder, and then to say that he does these things *because* he has an anti-social personality disorder. To say, in addition, that because he has such a disorder he deserves special consideration in the criminal justice system amounts to perversity, particularly when it can be shown that such a decision has no useful consequences.

If someone behaves unlawfully then let the law deal with him. If he is to be locked up, then so be it, for to do so is to punish him, to stop him from getting into mischief, or to make us feel better. If, in addition, he has a psychiatric disorder,

recognised by criteria other than or at least additional to the unlawful behaviour, then let him be treated by all means in addition to receiving his sentence. Madness is not relevant to the problems considered here; if it exists then other subtle and complex arguments must be pursued.

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It seems to me that most of the trouble has been caused by the invention of special terminologies, by the belief that naming something adds to our understanding of it, and by an extension of this to the effect that changing the name constitutes progress. I suspect that the more we use plain English, the more likely we are to understand what we are talking about. **MT**

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