

Psychopathy and Moral Agency

Jeffrey D. Bedrick MA MD

Clinical Associate Professor, Department of Psychiatry,
College of Medicine, Drexel University, Philadelphia PA, USA

Keywords: psychopathy, morality

Much of the recent work on psychopathy and morality has argued that psychopaths are not in fact morally responsible agents. (See, for example, the articles collected in *Responsibility and Psychopathy: Interfacing Law, Psychiatry, and Philosophy*, edited by Luca Malatesti and John McMillan, Oxford University Press, 2010.) This has the somewhat puzzling outcome of making psychopaths right about the answer to a significant moral question: the question of whether or not moral rules apply to them. What are we to make of this?

The argument that psychopaths are not morally responsible typically follows the path of noting that to violate a moral rule one must realize that there are moral rules and have the capacity to abide by them or not. The second part of the argument is not typically at issue. While psychopaths may have greater impulsivity than “normal” people do, their level of impulsivity is typically not such as to eliminate all ability on their part to control their behavior, and indeed psychopaths are often careful to try to mask their behavior as normal. Nor is it clear that the degree of impulsivity found in psychopathy is greater than that found in some other psychiatric disorders, such as borderline personality disorder, and these other disorders are not typically thought to abrogate the moral responsibility of those who suffer from them (or embody them). The psychopath who has irresistible urges to sadistically torture and kill other people is suffering from more than just core psychopathy, even if these are the people that, in the popular imagination at least, we think of when we think of psychopaths. Such urges are not a core part of psychopathy, and most psychopaths do not suffer from them. The psychopath who has such urges is suffering from two problems that are quite distinct, conceptually at least. (It may be that a non-psychopath might suffer from such urges as well, though we might presume that they would be less likely to act on them than the psychopath is.)

The central argument then hinges on the idea that psychopaths are not capable of recognizing that there are moral rules. Other than the assertions by psychopaths that they do not recognize moral rules, which might seem to be self-serving, there are two lines of evidence that are taken to support this claim. The first is that psychopaths do not follow the normal developmental processes that lead us to have a conception of moral rules, perhaps due to deficits in the psychopaths’ empathy with the pain and suffering of others. (This deficit may be linked to impaired responses to his or her own pain and suffering.) The second argument is

that psychopaths are not able to distinguish between moral and conventional rules, perhaps because of the abnormal development noted in the first argument. I will take up these arguments in reverse order, for reasons that I hope will become clear over the course of my argument in this paper.

The distinction between “conventional” rules and “moral” rules seems easy to delineate, and the ability of normally developing children, as well as psychopaths, to make the distinction has been studied in a number of elegant experiments (Blair, 1995, Levy, 2010). In brief, “conventional” rules are those that can be suspended if the appropriate authority, such as a teacher, tells you so, while “moral” rules cannot be suspended on the say-so of a particular authority. In a widely cited study, psychopaths were unable to make the distinction reliably, and they tended to say that even conventional rules could not be suspended. It was thought that, given the setting, they might have been “faking good.” But let us look a little more closely at the distinction and what the failure to make it means about the moral judgment of psychopaths.

It would seem fairly safe to say that conventional rules do not involve the prevention of harm to another person, and so they can be suspended on the say-so of the appropriate authority. Moral rules would be those that involved some harm to a person, and so no particular authority would have the right to suspend them. Even if we acknowledge that not all moral rules involve direct harm to a person, we might say that rules involving such harm are the core moral rules, and that other moral rules are built on this core scaffolding.

This, of course, implies that we would all recognize that it is morally wrong to cause another person pain and suffering – and that it is perhaps wrong to do this to ourselves as well. We would rule out war and legal punishment as representing very carefully circumscribed exceptions to these core moral rules, exceptions that have their own moral rationale and defense. We might begin to question how hard and fast our distinction is between moral and conventional, however. As the serial murderer played by Charlie Chaplin in his movie *Monsieur Verdoux* proclaims at his trial, “Kill a few people and it’s murder, millions and it’s politics.” (Paraphrased.)

What if the psychopath is not “faking good” but truly sees no difference between conventional and moral rules, and is less willing than we are to suspend any rules – or is equally willing to suspend all of them? Is our argument with the psychopath only about what circumstances justify suspending the rules, with the

psychopath accepting that his or her own advantage or desire justifies suspending the rules while we reject that claim?

Imagine, if you will, a professor of philosophy at a prestigious university who publishes a work arguing that since we cannot assume that moral rules have some divine provenance we must accept that they are human in origin. As human, the professor goes on to argue, they are in fact the result of social agreement, of convention. I don't think we would rush to say, except perhaps polemically, that the professor had no sense of what a moral rule was and was not in fact a moral agent. I think we would only seriously make this claim if the professor began to behave in a certain way, by knocking off his or her rivals when they were all together at a conference say.

So what does account for the differences we see in the studies of children and psychopaths, where it seems so obvious that the psychopath is missing a crucial distinction?

There have been a number of answers throughout the history of ethics as to what makes a rule moral, rather than merely conventional, as well as some claims that moral rules are just a particular subset of conventional rules. I certainly cannot address all of the possibilities here. But the work on psychopathy and moral responsibility has tended to adopt a particular approach to this problem. Moral rules are seen as being moral rules because we feel them to be so as a result of a certain developmental process. Kantian sorts of theories of morality that do not depend on an agent's feeling that something is the moral thing to do, have tended to be shunted to the side, though one might think the existence of psychopathy an argument for a Kantian view as opposed to an argument for the psychopath as not truly having moral responsibility. So morality has been addressed as linked to moral feelings, or sentiments, and as these are impaired in psychopathy, the moral agency of the psychopath is asserted to be impaired. But even if we were to accept this account of morality, are things as straightforward as they appear?

What we need to explain is why we are able to make a distinction between moral rules and conventional rules, even if the distinction collapses when pushed. It is all right to talk in class if the teacher says so, but it is not all right to hurt one of the other students. Clearly there is a difference here.

One difference might be in how the particular convention is derived. Talking or not talking in class is a rule that is specific to schools and established by them, so a teacher seems to possess the appropriate authority to suspend the rule, if not do away with it entirely. But the rule against hurting others is not a rule established by any school, and so a teacher cannot suspend it. It is possible, however, that the psychopath has trouble with this distinction. If psychopaths have a problem in understanding social relations and authority relations, they may not understand that a teacher is precisely the person with the authority to allow talking in class, and thus may seem to conflate two very different levels of rules.

We might think that the rule against hurting others was established by society as a whole, and so it would have to be society as a whole that suspended or revoked it. But we might think that psychopaths would not agree to such a rule (truthfully, anyway). So it would not be society as a whole that established such a rule, but society

minus its psychopaths. Is it clear that those in the minority are morally bound to accept the rules of the majority? Do we still think so when the majority thinks slavery is moral and it is a minority that objects that it is not? We might say that this case is different, in that here the minority is objecting in the name of morality, not to morality itself. What if we had an entire society of psychopaths? Would those of us observing that society from the outside say that it simply had not adopted rules against hurting others, and so that the psychopathic behavior we were observing was completely moral within that society?

It is questions like this that have led many to the idea, broadly speaking, of the moral sentiments. Those of us who are not psychopaths would view a society of psychopaths, or an alien race that lacked any notion of hurting each other as immoral despite possessing high technological intelligence and development, as immoral because it is in our nature (or nurture, or some combination of the two) to do so. We might wonder what exactly these moral sentiments are, why they are lacking in the psychopath, and whether this lack is associated with other deficits, and it is perhaps no surprise that there have been a multitude of works that attempt to address these issues from the standpoints of philosophy, developmental psychology, and neurobiology among others. I again cannot address all of these studies and approaches in this brief paper, but I would like to consider some of what appear to me to be the more common approaches to the issues involved, and some of the shortcomings in those approaches and the questions that remain.

Some have pointed to a diminished experience of pain, or of fear, in the psychopath as being linked to the failure of morality to develop in the psychopath. If pain and fear are not something to be strenuously avoided, then causing pain or fear may not seem like a particularly serious thing. Moral transgressions that do not directly cause fear or pain would be seen as being built on the core moral prohibitions that do forbid acts that cause such emotions. While such a theory might seem to depend on building a very large scaffolding of morality on a fairly narrow base of acts that directly cause pain, fear, suffering or death, it seems to face other problems as well. There are people who due to neurologic abnormalities do not feel pain at all, and while much use has been made of this in popular culture to explain why such people might treat others quite sadistically, in fact I know of no study that shows that people suffering from these abnormalities are also psychopaths. It seems possible in fact, as well as in theory, not to feel pain but to recognize that causing it in others is morally wrong.

Some have attempted to link feelings of disgust with certain sorts of acts with the development of morality, and to claim that psychopaths lack this sense of disgust. But there are many things that disgust us, and that we recoil from, such as eating feces, that we recognize as disgusting but would not say were immoral. Once again it seems that it may be more that we are disgusted by certain immoral acts, rather than that the disgusting is the basis of morality. (Not that all immoral acts disgust us, and even when they do the picture may be complicated. Popular culture also has many representations of rogues as heroes, even if dark ones. Even when we might otherwise be disgusted by particular acts of these rogues, we do not find the characters disgusting – though I admit our feelings might be different were we to meet a Dexter, say, in real life rather than in the pages of a book or on a television

screen.) And again, what would we say to a society of psychopaths or intelligent aliens who felt no disgust about torturing and eating their peers, beginning while they were still alive? Would we say that in that society such acts were moral? The society might have no problem with them, but would we feel comfortable saying that the society was right, and that such acts were indeed moral for the members of that society?

Theory of mind, which has become a very hot topic in psychology, is often invoked to explain the psychopath's deficits. The psychopath, it is said, cannot truly understand other people, or the ways in which they are like the psychopath, and so does not realize that he or she stands in a moral relationship to others. This position seems to me to be more sophisticated than the previous two we have considered, but it too seems problematic. One problem can be pointed to by the fact that people with autism spectrum disorders, who notoriously have difficulties with theory of mind, do not for the most part appear to be psychopathic. (This is actually a somewhat complicated question, which is in itself quite interesting. It is worth noting that Asperger wrote about "autistic psychopaths.") In response to this observation, and a number of others, some have proposed that the deficit in autism is in the realm of a cognitive theory of mind while the deficit of the psychopath is in the realm of emotional theory of mind.

This distinction is meant to address the problem that psychopaths often seem to be able to have an accurate sense of others, a sense that can help them hide their deficits and manipulate others. This sense of others would seem to include a sense of what others are feeling, however, not a merely rational theory of the other, and it is this sense of other's feelings that the psychopath may call upon in their attempts to manipulate others.

All of these theories in an odd way mirror the deficit that the psychopath is supposed to manifest. Just as the psychopath is thought not to be able to distinguish between moral and conventional rules, between the moral and a different category of things, these theories of the source of the psychopath's deficit do not distinguish between sensation, feeling, emotion, empathy, and morality. They attempt, as the old phrase has it, to derive an ought from an is. It is this confusion that leaves us at a loss when we attempt to imagine a society of psychopaths, or an alien race that has no notion of morality that we would recognize, and wonder whether psychopathic behavior is moral or immoral in that society. We have lost the ground we need to stand on in making moral judgments.

And it is this that would lead us into the uncomfortable position I noted at the beginning, of having to agree with the psychopath about an important moral question, of having to agree with the psychopath that they are not governed by any moral rules. We end up excluding the psychopath from the fully human community, just as the psychopath does not see that we are their equals in value.

It is not the purpose of this paper to outline a different theory of morality, one that might avoid the problems noted above, one that might be able to recognize the deficits to be found in the psychopath but still understand that despite what the psychopath might think, he or she is a human being just like us, bound together with us in a moral community. But a few concluding thoughts may be in order.

The psychopath may not accept the existence of moral rules (or may not see how they are different from other sorts of rules) but they are perfectly capable of seeing that there are rules that others consider to have special importance. They are capable of understanding that society expects them to abide by these rules. I think this is sufficient to meet the condition that the psychopath must know that there are moral rules. The person who is colorblind may not see color differences, but they can understand that they exist – and can learn ways to try to take into account these things called colors that they cannot see in the way the rest of us do. There is no reason the psychopath cannot do the same, and learn the moral rules they are responsible for living by even if they don't feel them. We might not want psychopaths as our moral legislators, but they can be responsible for following moral rules even if they could not formulate or produce the rules.

Further, there is another way of conceptualizing psychopathy that has been lost in the focus on the moral explanation for psychopathy, a conceptualization that I think helps us to feel more comfortable in confronting and thinking about the psychopath as much as it helps us to understand the phenomenon. Some psychoanalytic writers as well as others who have focused on the personality dimensions of psychopathy have thought of psychopathy as an intensification, if you will, of narcissism, an intensification in which the other truly ceases to matter other than as a means to fulfilling the desire of the psychopath. Michael Stone (2006) groups the personality disorders he discusses as untreatable, among which he considers psychopathy to fall, under the category of "the narcissistic spectrum" or "the extreme of the narcissistic spectrum."

If the core defect in psychopathy is not an inability to recognize and/or feel that there are moral rules, but is rather an inability to see others as being like the psychopath himself or herself, as deserving of the same care and consideration the psychopath himself or herself is, this would support the idea that psychopaths are responsible moral agents. I think it would also help us make moral sense of the fact that in many jurisdictions in the United States and elsewhere, psychopathy is considered an aggravating, rather than a mitigating, factor when it comes to the legal system and sentencing. This could now be seen to be done not merely from a pragmatic consideration, a consideration of protecting the rest of us from future harm or violence by the psychopath, but as a truly moral consideration, holding the psychopath responsible not just for the particular act but for his or her rejection of us as worthy of moral concern. Indeed, if this is a central factor in psychopathy, then holding the psychopath to be morally responsible would seem to be the proper thing morally and might even be important for the treatment of psychopathy, assuming that we are not just to throw our hands up and declare them untreatable.

A discussion of whether or not psychopaths are treatable is not directly germane to our issue here, but a very brief discussion may throw further light on the last set of issues that I raised. Psychopaths have been largely thought of as untreatable given our current state of knowledge, medications, and psychotherapeutic techniques (Stone, 2006). When studies have found that some patients with antisocial personality disorder may respond to treatment (Woody, McLellan, Luborsky, and O'Brien, 1985), the response has tended to be that those are the patients with antisocial personality disorder that would not meet criteria for psychopathy, especially as those that showed response met criteria for antisocial

personality disorder and depression, whereas psychopaths are typically thought of as not being subject to depression. Indeed, Stone in his book *Personality-Disordered Patients: Treatable and Untreatable* classifies patients with antisocial personality disorder as having an “uncertain” outcome to treatment but those patients with psychopathy as being beyond treatable (Stone, p.258). I remember a grand rounds from many years ago, however, in which Otto Kernberg claimed that you might be able to treat psychopaths if you could get them to have a paranoid transference – and be able to nonetheless carry the treatment on safely. This is the point that is relevant to us here. If you are to be able to treat a psychopath they must develop a paranoid transference; that is, the psychopath must see you as possibly behaving towards them as they would behave towards another person. The psychopath must see him- or herself as being like you, as being the same sort of creature, if treatment is to be possible. If we want to be able to treat the psychopath, likewise, we must accept – and demand – that they are beings like us, moral at the core.

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Acknowledgements: none

Competing Interests: none

Address for Correspondence: Jeffrey.Bedrick@DrexelMed.edu

Date of Publication: December 12, 2013