

— Between crime prediction and crime prevention

Transcription of the interview with Adrian Raine¹ - Ch. 4

4. Degrees of guilt: the problem of free will

Do I believe in free will? To be honest, no. I believe I am machine, I am constructed of, I've got genes which shape physiological processes and my brain, to shape my behaviour, and that those genes conspire together with environmental experiences to make me do what I do. There's a cause of all behaviour, all behaviour is caused.

“There’s a cause of all behaviour, all behaviour is caused”

Do I make decisions? Yes, I do.

But I think it's more complicated than that. Of course we make decisions, but there are neuro-processes that will make me decide whether or not to get up and leave this room, or whether to stay and keep on answering your questions. And those neuro-processes, again, are predicated on genetic make-up, environment experiences, and chance events as well, which are also out of our control. So what do we do about this? People are worried about no free will. Well, I think we just accept it, recognize that all behaviour is determined.

“The question would be to what extent do we punish offenders as much as we do, if the causes of their behaviour are beyond their control”

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I do make decisions every day, every minute, of course I do. But I think the causes of those decisions are beyond me. They come from me, they come from my brain. Am I in charge of my brain? Yes and no. If a part of me is in charge of my brain processing, it's not coming from the outside, it's coming from within me physiologically.

If all behaviour is determined, is it acceptable to blame someone for her actions?

The question is, could we blame, should we blame them? One way to think about is to say, «Look, wake up everyone, there is no free will, but we have to live in a practical world and practical society, and if somebody is running around committing crimes, even if it's beyond their control, we have to do something. We have to protect society». I think we all agree with that.

But with the idea that there is no free will, I think it makes a bit of a difference to the whole issue of retribution, and the extent to which we punish people. What's the counterpoint?

I am a parent, I have two boys, have I punished them? Yes, I have, of course I have, when they were children. They need to be socialised. To some extent everyone needs to be corrected, and sometimes, even if it's a mild punishment, taking away their toy or not giving them some sweets, children need to learn. So, at some level, you could argue we all, even though we've grown older we can still learn, we are always learning, and to the extent that punishment is part of socialising a child, it can be argued that we still need punishment in society even when the individual is an adolescent, even when they are an adult.

“Of course, the question will come, how much punishment?”

I think the law does degrees to which we blame an individual. And we look at the individual, and we say, “Well, do they know what they were doing at the time?” “Do they know what they were doing is wrong?” If you don't know what you're doing at the time, and you don't know that what you're doing is wrong, then in American law you lack rational capacity, you are not responsible. But, the way I see it is that

“responsibility is not black and white, there's shades of grey”

And perhaps it comes back to these factors, like poor frontal lobe functioning, low physiological arousal.

Don't you think we have to weigh these factors in the scales of justice, and create a metric, a scale, of culpability? Just like we have a scale of IQ.

Now, what goes into that assessment would be a matter of debate amongst legal scholars, I am sure, and amongst scientists and psychologists, but I think we could, and I think we should.

“We could weigh these factors in the scales of justice, and create a metric, a scale, of culpability. I think we should”

I think what we also have to do is think about the victims.

I defended a man who raped and murdered a beautiful young woman. I defended him, I brain-scanned him, I showed he had poor frontal lobe function, presented that to the court, and he escaped the death penalty, in part because of that evidence. But if that girl who was raped and murdered was my daughter, I am yearning for the death penalty, it's my flesh and blood. So I think we have to think about the victims and I think we have to think about alternatives for them.

“We need to think about things for the victim here, if we are beginning to get rid of blameworthiness, because the victim and their family, they want somebody to blame”

So any system that wants to take away blameworthiness, we'll have to consider what we put in place to appease the safeness of society, or even appease part of ourselves because I think

“Retribution is core in human nature to some extent”

And I think we have to think hard about this and that's difficult.

[to be continued]