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CONCEPT OF RESPONSIBILITY

ROBERT A. FEAREY

The subject matter of this article is outside the author's professional field. We have here, therefore, one layman's views on the philosophy of punishment, and there are challenging elements in it.

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CHARACTER A PASSIVE CREATION?

The careers of two young hoodlums—the *nth* children of poor families—had followed a familiar pattern: early transgressions, the reformatory, increasingly serious crimes, classification as "habitual type criminals", and finally murder during a holdup. In his concluding argument the prosecuting attorney maintained that the young men had faced regrettable handicaps in their upbringing for which they could not be held responsible; that this mitigating factor did not, however, detract from their essential responsibility for their acts as sane, adult individuals; and that not simply for the protection of society but as deserved retribution for a vicious crime they should pay the supreme penalty.

The day may come when this reasoning will be seriously questioned. Gradually, so gradually as almost to have escaped detection by most of us, the social sciences have narrowed the area in which the individual can reasonably be considered responsible for his acts. We sometimes forget that it is only in comparatively recent times that the irresponsibility of the insane has been recognized. Increasingly in dealing with youthful transgressors, the courts, prompted by the scientific spirit of the age, have sought to correct and reform rather than to punish those not yet at the "age of reason". And steadily growing recognition has been accorded the influence of environment and heredity in the formation of character—factors beyond the individual's control and for which he therefore cannot logically be held responsible.

Increased knowledge of the extent to which we are the passive creations of factors over which we have no control has not as yet in any degree, however, shaken the universal conviction that the sane, adult individual is nevertheless essentially a self-determining entity responsible for his acts and deserving of reward or punishment, ultimately in a hereafter if not on earth, according to the nature of those acts. A murderer can be born of parents with criminal tendencies, be of subnormal mentality, and be brought up from infancy to a life of crime, but if he is of age and adjudged "legally sane" he will be held fully responsible for his crime and made to suffer the mental and physical torture of execution. The concept of man as a self-determining, responsible agent is as old as the human race, and basic to much of our legal and religious thinking. For obvious reasons, therefore, our minds seem unconsciously to be in revolt against the thought that we may be not just partly but wholly the product

of factors over which we have no control and that our idea of ourselves as self-determining, responsible entities is only a self-satisfying illusion. Nevertheless, the evidence to that effect seems clear.

The "character" of a child at an age of obvious irresponsibility, from infancy up to, say, two years, can at most have been derived from three sources. The child inherited certain characteristics from its parents, and through them from its grandparents and still farther back on the family trees. Environmental influences had been acting on it from conception. And it may or may not, depending on one's individual beliefs, have had a soul placed within it by a Creator, i.e., some element which it did not inherit from its forebears or obtain as a result of environmental influences but which forms part of its make-up and latent character. Common to all three of these elements is the fact that the child manifestly had no part in their selection, any more than it did in regard to its being born at all. Being completely passive to the selection process, and with its "character" so clearly limited to these three possible components, a child of this age is everywhere recognized not to be responsible for its actions.

As the child grows we find the average mother beginning to impute an independent and responsible personality to it and to hold it at least partially culpable for its misdeeds. Reprimands and physical punishment begin to include a note of blame. Reward and punishment are no longer administered purely for their educative value but are regarded as at least partly deserved by the child, which is now considered to be beginning to determine its own behavior and hence to be at least partly responsible for that behavior.

The mother's change of attitude is understandable, but would seem to have no logical basis. Only if the child, in passing from an irresponsible to a supposed responsible age, had somehow been able to free itself from the control of its existing, passively acquired "character" and, stepping outside itself, select and introduce into its make-up new elements not in accordance with its character, would we be justified in considering that it had become responsible, i.e., come to deserve blame or praise, punishment or reward for its actions. Having independently of its existing, passively derived character introduced new elements into its make-up, it would necessarily become responsible for actions which it might later take as a result of those elements. Needless to say, however, there is no evidence that children, in reaching an age when their parents begin to consider them responsible individuals, take any such action, or that their characters at this age are any more than the rational development of their former irresponsible characters, as the result of increasing age and widening and changing environmental influences. It would be impossible for a child or anyone else to put aside his existing nature and add elements to his makeup not in accordance with his existing nature.

By the time the child reaches fourteen or sixteen the impression of an independently self-determining, responsible person is almost overpowering. When a boy of this age steals, the parents are likely to ascribe part of the blame to undesirable neighborhood associates, and a court will emphasize correction rather than punishment until the age of reason or full responsibility is reached. But both parents and court are likely to place a major share of blame on the boy himself, irrespective of the qualities he

must be assumed to have inherited, his environment, and his soul. The boy himself will probably feel that the decision to commit the misdeed was personally and independently his. Reason indicates, however, that all decisions and consequent actions of a boy of sixteen are dictated by his character reacting to contemporary circumstances and influences; that he possesses no powers of decision or action independent of his character; and that he is not responsible for the nature of his character because at any given time it is the cumulative product of the fact that he was born at all, inherited characteristics, environmental influences, perhaps a soul—for none of which is he responsible—and a long series of actions since early childhood for which, since they were always dictated by and in accordance with a character for which he was not responsible, he cannot be held responsible.

The underlying cause of warped character and consequent bad behavior in a boy of this age is of course not always readily apparent from his background. The more obscure the cause the more inclined the parents and judge are to blame the boy "himself". Imagine, for example, a boy born of respectable, well-to-do parents brought up intelligently in a good neighborhood. Nevertheless at the age of twelve he begins to show a disobedient and recalcitrant streak, runs away frequently, shows a preference for bad over good associates and finally ends up in court in his sixteenth year charged with repeated serious offenses. In sending him to a reformatory the judge would be likely to develop the point that although in cases of underprivileged boys from poor environments he usually felt more inclined to pity than to blame, in this case, where the boy had had every advantage but had chosen to repudiate his good upbringing and training, he felt he fully deserved the punishment he was getting.

This attitude seems logically indefensible. There seems to be no justification simply because the cause of the boy's misdoing is not easily perceived in his background for jumping to the conclusion that the cause is not in his background, i.e., in relatively obscure inherited or environmental influences, to which he was as passive as a less advantaged contemporary to the influences bearing on him. If more were known of heredity, and of the character components which may be placed in every one of us at birth by a Creator, the boy's misdeeds would be as apparent in his background as in other more obvious cases.

The actions of John Doe, aged 40, give every appearance of being taken by an independently self-determining person in whom such factors as inherited characteristics and environmental influences have been completely submerged and overshadowed by the character of John Doe "himself". And yet reason indicates that the character of an adult is as completely the product of external factors over which he has had no control as the character of a boy of sixteen. Each stage of life derives from the previous stage, going back to an early childhood of obvious irresponsibility. No decision that John Doe has made during his entire lifetime (for example at the age of 22 to go to law school and make a career for himself instead of living off a legacy just left him by a rich uncle) *could* have been made differently from the way it was, given his character at the moment of the decision, a character for the nature of which he was not responsible, and the contemporary external situation, e.g., the promptings of parents and friends, an opening in the law school of his choice, the likelihood that taxes on unearned income would be increased, etc. Being what he was and the

circumstances what they were his creditable decision followed inevitably, and cannot logically be said to entitle him to praise or blame, reward or punishment.

If we are willing to face the fact, offensive as it may appear, there is no more logical justification for ascribing responsibility to an adult man or woman than to a ten-year old car. As a car does not choose to be made, so a human being does not choose to be born. Once that decision has been made for him he has no more power to choose his inherited characteristics than a car has to choose its motor or body characteristics. Man no more chooses his early environmental influences than a car does the nature of the country in which it is driven during its early years or the care given it by its first owner. And man is no more responsible in later years for his character, developing step by step from these early influences and in accordance with changing external circumstances, than a car in its later years is responsible for its performance, derived from the characteristics instilled in it by its manufacturer and the treatment accorded it by its various owners. And yet while no man in his right mind would think of blaming a ten-year old car for bad performance, an adult criminal is everywhere considered responsible for his crimes, with only a partial bow toward the inherited environmental and other passively acquired characteristics which, together with a possible soul, in fact entirely account for his waywardness. Man's variegated character and wide capacities have blinded us to the fact that he is in fact as passive to his creation and development, and hence as unaccountable for his actions, as an inanimate machine.

IF WE ASSUME A SOUL

Of the three sources of character—inherited attributes, environmental influences and, possibly, a soul—the relation of the last to the problem of individual responsibility is the most difficult to analyze because, while we may believe much, we know nothing about the possible existence and composition of the soul. The fact that so many persons' characters are so different from what even the most exhaustive research into their inherited attributes and environmental backgrounds would lead one to expect supports the idea that the individual's make-up does include a third element received from some unknown source. Thus far we have confined our treatment of the soul to what would seem the indisputable statement that if the individual possesses a soul he did not select it himself, and therefore, as with inherited characteristics and environmental influences, he cannot logically be held responsible for its nature, or for actions to which he may be led as a consequence of its nature. The concept herein developed of man as the passive product of factors over which he has exerted no independent, self-determined control is left unimpaired by this interpretation of the soul.

Some, however, have a view of the soul which would for them constitute a complete refutation of the suggestion that man cannot logically be considered to deserve blame or praise, reward or punishment for his actions. To such persons the soul is the seat and source of human responsibility. Through the soul, given each of us by the Creator, sometimes represented even as a piece of the Creator, we are held each of us to have been originally constructed, and to remain, responsible, self-determining individuals. The fact that one does not choose his soul makes no difference. He has it and by its possession is *ipso facto* a responsible being.

This view, that we are created responsible in the same way that we are created with two arms and two legs, cannot be disproved. But neither is there the slightest evidence to support it. On the contrary, man's nature, activity and entire course of existence can all be completely explained and accounted for on the basis of the directly opposite thesis, that we are not created responsible but that each of us is the passive product of factors over which we had no control,—including, possibly, a soul in the limited sense of a portion of our make-ups not derived from inheritance or environment but instilled in us at birth or later. Why should the soul, if we each have a soul of any kind, be of such particular type as to make us responsible? There is no reason, though it is easy to see why man with his limited knowledge of the effects of heredity and environment should have from earliest times accepted the apparent fact that, from the possession of a soul or simply from the way he was made, he was his own master, self-determining and hence responsible. When one analysis—leading to the conclusion that man, like a Ford car, is the product of factors over which he has had no control—accords in every respect with experience and objective fact, is it reasonable to reject that analysis in favor of another which rests only on belief, even if the belief of untold generations, and which involves us in practices which appear patently wrong and misconceived, such as our penological practices?

NO RESPONSIBILITY? THEN WHAT?

What would a world be like from which the concept of individual responsibility had been eliminated? Would it be a better or a worse place in which to live?

Clearly worse if everyone acted "irresponsibly", indulging his every desire on the theory that since he was recognized not to be responsible for his actions he might as well do as he pleased. It seems unlikely, however, that people would act this way. The on-balance good behavior of the majority of men is not due to desire for praise and reward or to fear of blame and punishment but to the discovery over the course of human history that "proper" living, in a cooperative rather than a selfish relationship to one's fellow men, is most conducive to happiness. This fundamental fact, and the incentive to proper living which it provides, would remain. Success in the various walks of life would be recognized to be the result of factors for which the individual could claim no credit, but there is no reason to believe that this would mean a diminution of incentive to success through constructive endeavor. The principal incentives to achievement—to secure the necessities and the luxuries of life for oneself and one's family, to attain a position of authority and respect in the community, and to promote the public welfare—would remain.

Is there danger that human relationships would be devitalized if everyone's character and personality were recognized to be the product of factors over which he had had no control and was not responsible? The risk seems slight. One likes or dislikes others because of what they are. How they came to be what they are varies from a matter of secondary importance to one of virtual unimportance. The present writer, who has been convinced of the fallacy of our concepts of blame and praise, punishment and reward throughout his adult life, has not found his attitude toward others affected in the slightest by this conviction. Nor, as far as he is aware, has his general behavior been affected. This may be because one's attitudes and actions are

never more than partially governed by one's logical beliefs. It may be impossible in one lifetime to cease adherence, not simply in mind but also in practice, to a concept so ingrained in human thought as to have become almost instinctive.

What would be the impact on religion? The belief that it is within each individual's independent power of decision to lead a good or a bad life, and that the good will be duly rewarded and the bad punished in an afterlife, forms an integral part not only of the Christian, but, in various forms, of other leading religious faiths. Abandonment of the concept of personal responsibility, and also, as would necessarily follow, of the idea of the compensatory afterlife, would necessitate a thorough revision of important religious doctrine, something which, needless to say, is scarcely to be anticipated in the foreseeable future.

Viewing the matter only in the briefest and most preliminary way it seems probable, however, that it would be more dogma than the ethical substance of sincere religious beliefs which would be affected. The worthwhile Christian, for example, does not lead a good life on earth in order to assure himself of heavenly reward, or because he fears later punishment for earthly failings. He does so because he is convinced that right conduct makes for a better and happier world. The theologian speaks frequently of later reward or punishment, but the substance of his message is, or should be, the happiness and peace of mind which a life of unselfish and constructive endeavor brings here on earth. The proffer of heavenly reward or punishment seems neither a very worthy nor, in practice, a particularly effective inducement to good conduct, and it would seem could be dispensed with without in any way invalidating the essential truths of Christian teaching. As to the comfort which the good derive from contemplation of a rewarding, or at least a peaceful, afterlife, this comfort need not be lessened by knowledge that the good cannot logically take credit for having been good nor the bad blamed for having been bad, and that all are therefore equally deserving of a peaceful afterlife—if death should in fact be a gateway to further life rather than extinction. There seems, in short, no basis for believing that conduct, which after all is or should be the basic concern of religion, would suffer if the concepts of personal responsibility and the compensatory afterlife were abandoned.

WAY TO A REASONABLE PENOLOGY

Whatever its other effects, good or bad, recognition that blame and praise, punishment and reward have no basis in reason would open the way to a much needed reform of our present penal system.

That there is something basically wrong with our penal concepts is becoming increasingly obvious. Each year vast amounts of the taxpayer's money are spent in catching and convicting criminals. Sentences, however, are in accordance with the seriousness of the crime; whether the crime was a temporary aberration not likely to be repeated or the work of a confirmed criminal almost certain to be repeated is a definitely secondary consideration. During confinement efforts for reform are frequently negligible to nonexistent, while the influence of prison associations and discipline is all in the direction of confirming the first offender in a life of crime. Eligibility for parole is primarily on the basis of good behavior, which can be practiced as successfully by the confirmed criminal as by the novice. As the inevitable result of these failings large numbers of criminals who have finished their terms or

been paroled but are completely unregenerate are each year sent forth to resume their careers of pillage and murder until once again apprehended, convicted and returned to jail.

The cause of this dismal cycle seems clearly to be that our penal system, as the name implies, is essentially dedicated to the negative purpose of punishment—to compel the criminal to “pay his debt to society”. It is, of course, not surprising that this should be so. From time immemorial the antidote to crime has been punishment, conceived as serving the double function of inflicting deserved retribution on the evil-doer and of deterring others. While a certain amount of progress in the reform of our penal system might be made, and indeed in some states, notably California, is being made, within the framework of the universal concept that the individual is a self-determining entity who is responsible for his acts and should be punished for wrongdoing, there seems little doubt that widespread reform can only follow acceptance of the thesis, herein discussed, that the individual cannot logically be held responsible for his acts and does not deserve reward or punishment.

What would be the nature of such a reform? The objectives would be, first, to eliminate the concept of deserved retribution in criminal sentences, and second, by keeping the criminal in confinement for as long as he remains a public danger, while making every effort to accomplish his permanent reform, to afford society a higher degree of protection from its criminal element than it now receives. The criminal would still go to jail but conditions of confinement would reflect the fact that he was being held not in punishment, which would form no part of his treatment, but, like a patient in an enlightened mental institution, solely to ensure that he did not constitute a public danger and in order to facilitate his reform. His “sentence” would not be for a specified period of time but for as long as he was considered by competent examiners, repeating their examinations at frequent intervals, to be a public danger. The examiners, professional psychologists and criminologists, would base their decisions on such factors as the premeditated or unpremeditated nature of the crime, the criminal’s previous history examined in greatest detail back to earliest childhood and including hereditary influences, and his behavior while in confinement. A convicted murderer whom the examiners believed practically certain not to repeat his crime might be held in confinement a relatively brief period, while a confirmed thief, forger or other less serious but persistent offender might be detained indefinitely. Capital punishment would be abolished. It would be the duty of the state, foreign as the idea may sound in our present state of beliefs, to confine under as comfortable conditions as practicable the most brutal murderer for his entire lifetime, if continual observation and frequent examinations indicated that he still would be a public danger if released.¹

Would this scheme—under which a life of confinement under reasonably comfortable conditions would be the worst any criminal need fear—remove the deterrent to crime which our present, in some respects harsher, penal system is considered to provide, and result in an increased crime rate?

¹ Readers familiar with the indeterminate sentence plans of California and certain other states will note similarities to those plans. The differences between them and that here suggested derive from the extent to which the California plan continues to rest on the retributive theory of criminal treatment.

Though the deterrent effect of the proposed scheme might be less than that of the present system, it is not certain. Criminals now know that they will be released after completion of their set terms (probably before if their behavior is good) irrespective of whether they appear likely to return to crime or not. Under the plan here proposed, however, the "prospective" criminal would know that there was no possibility of his release until expert examiners had agreed that the chances of his committing a further crime were remote. Confirmed criminals, particularly, would thus face the probability of longer confinements than now—not an attractive prospect or without its deterrent value no matter what the conditions of confinement.

Even if the proposed scheme should constitute less of a deterrent to crime than the present system, there is reason to believe that it would bring a substantial reduction in the total incidence of crime. This would follow primarily from the fact that our absurd practice of releasing thousands of confirmed criminals each year would be at an end. Further, the fact that the emphasis would be entirely on correction and reform, and not at all on punishment or the simple completion of terms, should increase the percentage of reforms. With release possible only on the decision of experts that a reversion to crime was highly unlikely, the state would have a powerful incentive from a financial point of view to accomplish the reform of criminals in its care. And public knowledge that convicts were released only on expert testimony that they had reformed would assist ex-convicts to rehabilitate themselves and to avoid slipping back into crime.

It is not suggested that the scheme would be without its weaknesses. The examining experts' task would be a difficult one even with our growing psychiatric, criminological and other knowledge. But though mistakes would be made the improvement over a system which deliberately looses upon society large numbers of known, confirmed criminals each year seems obvious. Ranking beside this gain would be the fact that the injustice now being done our criminal minority would be ended: a minority who are being blamed and punished for actions for which their backgrounds and pure chance were responsible, not "they themselves" in any independent, self-determining sense.

CONCLUSION

The idea of personal accountability, which is very deeply imbedded in everyday thinking and practice, is likely at most to be only very gradually modified. The belief that his character is essentially his own creation is naturally one of man's most attractive and self-satisfying concepts. Realization that he is not a self-determining entity but merely the product of factors over which he has no control would be a most disillusioning experience for the average member of the human race.

The fact that the idea of personal responsibility will almost certainly not be abandoned in the foreseeable future need not, in most respects, be a cause for concern. The question whether the concept of personal responsibility will eventually be abandoned is, however, of definite importance for the sorely needed reform of our penal system. Perhaps it is not too much to hope that, if emotional recognition of the irresponsibility of man cannot soon be expected, a degree of intellectual recognition may be attained in the not too distant future which will open the way to a satisfactory reform of our penal concepts.