ABNORMAL PSYCHOLOGY

Psychopathy and the Criminal Justice System

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November 19th, 2007
“My mother, the most beautiful person in the world. She was strong. She worked hard to take care of four kids. A beautiful person. I started stealing her jewelry when I was in the fifth grade. You know, I never really knew the bitch – we went our separate ways.”

With rapid technology improvements and scientific advancements, men successfully solved many a great mysteries and uncovered some previously hidden. While it means the amount of incurable illnesses will continue to rise, morbidity rates have significantly lowered in recent years. New and improved diagnostic tools allow the early detection of illnesses, leading to early medical intervention which reduces complications, while advance treatment methods enhance our quality of life.

Yet many puzzles remain unsolved. However, in contrary with the past, men today are capable of intellectual debates, revising social structures and norms to rehabilitate those with illnesses still incurable.

An anti-social behavior called Psychopathy likely has the highest prevalence in society. Typically of average intelligence and above, psychopaths are manipulative for their own good. They constantly get away with breaking laws and wounding hearts. Their ability to disguise their faults and blend with the masses have called for much debate and consideration on ways psychopaths should be treated by individuals as well as the health profession and legal system.

This paper discusses the nature of Psychopathy and its place in the criminal justice system.

Psychopathy is widely understood in the medical and helping profession as a form of
psychopathology. But it had not always been so. In the 19th and much of the 20th century, men beat their wives who displeased them, parents physically tormented children as punishment for unsatisfactory conduct. In present days, such acts are forbidden in many states and their commitments often result in sanctions and penalties. Most societies no longer view violence a normative conduct not because of social sanctioning but the increased compassion for children and reduced psychopathology in lieu of social liberation. (Scharf R, 2001)

American Author and Researcher Alice Miller attributes adult violence to childhood experiences. She explains that children who were humiliated by spankings, slaps in the face, beatings, betrayal, derision, neglect et cetera are likely to project the hurt they experienced on others. She encourages the confrontation and acknowledgement of one’s own still unconscious but highly effective fear of the formerly beaten child. Repressed feelings always seek expression, either on others or by causing severe illnesses to the self. Miller developed a concept of therapy that help patients face the wounded unconscious and set themselves free from past bondage. Miller’s views support Scharf’s argument that Psychopathy stems from psychopathology rather than being the result of deviant behavior.

Unlike other forms of personality disorders, Psychopathy is often disguised by a seemingly normal disposition. Thus the disorder cannot be diagnosed by observation alone. Psychopaths may hold stable jobs, such as lawyers, bankers, plumbers, and teachers, who possess respectable social standings. Psychopaths often score high on the Intelligence Quotient and are capable of escaping the law for deviant behavior.
Philippe Pinel (1801/1962) made the earliest account, naming it *manie sans delire* or "mania without delirium", to describe people deficit in reasoning ability. (Sucker, Bugg, & West, 1993) Other names such as moral insanity and Sociopathy were also used. It was not until the late 1800s that the term Psychopathy came into being. (Barlow D., Durand M, 2005)

DSM-IV-TR describes Psychopathy as an antisocial personality disorder. The diagnostic criteria stated involves observable behaviors such as “impulsively and repeatedly changes employment, residence or sexual partners”

More have been uncovered over the years. Hervey Cleckley (1941/1982) a psychiatrist who studied people with “psychopathic personality” identified and noted a constellation of behavioral traits, referred to as “Cleckley Criteria”. They include superficial charm, good intelligence, absence of delusion and other signs of irritational thinking; absence of “nervousness” and other psychoneurotic manifestations, unreliability, untruthfulness, and insincerity; lack of remorse or shame; inadequately motivated antisocial behavior, poor judgment, and failure to learn by experience; pathological egocentricity and incapacity for love; general poverty in major affective reactions, specific loss of insight, unresponsiveness in general interpersonal relations; fantastic and uninviting behavior, with drink and without; suicide rarely carried out; sex life impersonal, trivial and poorly integrated; failure to follow any life plan. (Cleckley, 1982, p. 204)

Professor emeritus of the University of British Columbia Robert Hare (1991) and his colleagues further researched the nature of Psychopathy and built on Cleckley’s description of
Psychopathy. Hare turned it into a checklist of six identifiable characteristics as a diagnostic guideline, called the Revised Psychopathy Checklist – PCL-R, also nicknamed as, “The Hare”.

The list is as follow:

1. Glibness or superficial charm.
3. Proneness to boredom and need for stimulation.
4. Pathological lying.
5. Conning and manipulative.

However, in his retirement age, Hare has not resigned from his lifetime involvement in the field.

What now concerns him are the ways PCL-R is being used and misused. In the United States, for example, a high PCL-R score is used to support death-penalty arguments, and in England, was a debate on whether some individuals with personality disorders, such as Psychopathy, should be detained even if they haven’t committed a crime. After decades of labor in peaceful obscurity, Bob Hare has become a man with a suitcase, a passport, and a Powerpoint presentation, a reluctant celebrity at gatherings of judges, attorneys, prison administrators, psychologists, and police. His post-retirement mission is to be a good shepherd to his Psychopathic Checklist. (Hercz. 2001)

A common understanding holds that if you sow, so shall you reap. Deviant behaviors were largely attributed to poor upbringing and ill social background, which has been proven inapplicable in many instances. There are learned and politically correct psychopaths brought up in wonderful families who did horrendous things without guilt and remorse. In his book, Without Conscience, Hare quoted a psychopathic rapist on why he could not empathize with his victims. “They are different, right? But, you see. I don’t really understand it. I’ve been frightened myself,
but it wasn’t unpleasant”.

Hare himself was bitter. After much debate and consideration, criminologists, psychologists and sociologists who at first grew in concern over the nature and implication of Psychopathy, brushed it aside with an ignorant belief that people are inherently good, and any deviant in behavior calls for morality control measures much like everyone else. They refuse to believe psychopaths are biologically different. (Hercz, 2001)

As former Courts of Appeal Judge John Biggs Jr. once said, “Let us revise our views and work from the premise that all laws should be for the welfare of society as a whole and not directed at the punishment of sins.” The same can be used to support Hare and his research on Psychopathy.

Hare and his legion of predecessors and followers believe that psychopaths are not fully responsible for the crimes they commit because they fail to attribute feelings of remorse and guilt to behaviors that society deem as deviant. The biological model of Psychopathy links it to reduced or altered functioning in the paralimbic system of the anterior cingulate cortex in the brain, supposed to regulate affective content. (Kiehl, 2005)

In 1991, Hare made a breakthrough study when he examined and found brainwave differences in a group of normal subjects and those of psychopaths. It is notable, however, that despite his landmark discovery of a biological model, Hare is not yet prepared to draw the conclusion definitely. (Kaihla P, Wood C, 1996)

In his book entitled, “The Mask of Sanity”, Hare further says while PCL-R describes Psychopathy as a disorder and should be given medical attention, it should not constitute to the
immediate removal of responsibility from patients over the crimes they commit, as that would negate Psychopaths the reason to intentionally shun responsibility and blame others for their faults.

Psychopathy will be under constant examination and the cause of much debate as the legal system is refined. During the 1800s, a woodcutter assassinated an English civil servant named Edward Drummond while suffering from Paranoid Delusion. His case led to the formulation of the M’Naghten Rules, a legal defense of diminished responsibility under the claim of insanity, The House of Lords rules that:-

To establish a defense on the grounds of insanity, it must be clearly proved that at the time of committing the act, the party accused by laboring under such a defect of reason from disease of the mind as not to know the nature and quality of the act he was doing or, that he did not know it, he did not know he was doing what was wrong.

However beneficial this rule may be for those worthy of pardon, psychopaths do not qualify the benefit of this rule, because the burden of proof lies with the defendant. Unlike psychotic disorders, Psychopathy does not amount to disturbance in mental cognition and those afflicted are mentally fit to stand trial in court. Psychopaths are competent enough to understand the nature of the charges against them and are able to assist counsel, their failure to reason out any wrong in deviant behavior, bewildering attorneys. In other words, psychopaths know that the crimes they committed were wrong, but they are unable to feel or understand why they were wrong.

The biological aspects of Psychopathy are still under research, and until substantial and
scientific evidence are found to prove it’s psychopathological causes, countless under-diagnosed psychopaths will continue being sentenced to jail and out, only to return soon for a different crime, wasting taxpayers’ money. If brain imaging becomes a legitimate proof of Psychopathy, the death penalty in many countries would likely be subjected to revision and abolition. (D’Souza T. M, 2001)

And as if Hare does not have enough on his plate, there lies the issue of recidivism. Psychopaths are often pronounced guilty not so much for the disqualification from legal insanity but their inability to learn from past mistakes and thus are likely to repeat their crimes, necessitating longer incapacitation behind bars. In jurisdictions that impose capital punishment, death sentences are given to psychopaths for serious crimes. In which case, the diagnosis criteria of Psychopathy could be improperly used to impose unjust sentences based on prejudice or other irrational factors such as the abovementioned. (Morse, law.jrank.org)

But not all is grave. Various jurisdiction have revised their statutory definition of Psychopathy such as the formulation set out in the Mental Health Act 1959 of England and Wales.

…a persistent disorder or disability of mind (whether or not including sub normality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the patient, and requires or is susceptible to medical treatment.

Between the years of 1952 and 1954, the State of California ran a program that justified extensive psychiatric treatment for sexual psychopaths A sample of 284 patients studied over a 2-
year period were subjected to two phases of research. The first phase involved 90 days of observation that determined whether the patients qualified as sexual psychopaths as determined by law. When one qualified, he was then entered to the hospital to receive treatment on an indeterminate basis. Three-quarter of the patients were discharged as improved, while only 50% of cases improved before the intensive treatment program. (Liebermann D, Siegle, B. A. 1957)

In recent years, PCL-R has been used in courts across the United States with increasing regularity by expert witnesses to assess the risk of recidivism, and to address pretrial, trial related, and dispositional issues. Debates are on that considers its validity as an accurate assessment tool in legal disputes and what cases should it apply to, because potential misuses of the PCL-R are high, which may lead to unnecessarily mild sentences for those deserving of punishment. Others inquire whether psychological tests are relevant to the legal question at hand. (Dematteo D, Edens J. F., 2006)

The study of Psychopathy has seen much development since the beginning of the 18th century. By causing the revision of the criminal justice system, Psychopathy correlates with social development and liberation. Hopefully, the efforts of Professor Robert D. Hare and his legion of predecessors and supporters will soon bear the fruits of labor and Psychopathy would go on to cause much improvement in the criminal justice system and in society.
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