

Direct Brain Interventions and Responsibility Enhancement

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Abstract Advances in neuroscience might make it possible to develop techniques for directly altering offenders' brains, in order to make offenders more responsible and law-abiding. The idea of using such techniques within the criminal justice system can seem intuitively troubling, even if they were more effective in preventing crime than traditional methods of rehabilitation. One standard argument against this use of brain interventions is that it would undermine the individual's free will. This paper maintains that 'free will' (at least, as that notion is understood by those who adopt the influential compatibilist approach) is an inadequate basis for explaining what is problematic about some direct brain interventions. This paper then defends an alternative way of objecting to certain kinds of direct brain interventions, focusing on the relationship between the offender and the state rather than the notion of free will. It opposes the use of interventions which aim to enhance 'virtue responsibility' (by instilling particular values about what is right and wrong), arguing that this would objectify offenders. In contrast, it argues that it may be acceptable to use direct brain interventions to enhance 'capacity responsibility' (i.e. to strengthen the abilities necessary for the exercise of responsible agency, such as self-control). Finally it considers how to distinguish these different kinds of responsibility enhancement.

Keywords Responsibility · Moral enhancement · Free will · Neurolaw · Rehabilitation · Dialogue · Objectification · Neuroenhancement

Introduction

There is a pressing need to develop more effective ways of re-integrating offenders back into society. Reconviction figures in some UK prisons are over seventy percent (Ministry of Justice 2010). Effective rehabilitation could also lead to considerable savings. The average cost of keeping one offender in prison for a single year is £40,000 (Adebowale 2010, p. 73). Insights from neuroscience may well lead to the development of more successful methods of

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