



1956

Responsibility: A Psychiatrist's Point of View

M. A. Sklansky
University of Illinois

Follow this and additional works at: <https://uknowledge.uky.edu/klj>

 Part of the [Law and Psychology Commons](#)

Right click to open a feedback form in a new tab to let us know how this document benefits you.

Recommended Citation

Sklansky, M. A. (1956) "Responsibility: A Psychiatrist's Point of View," *Kentucky Law Journal*: Vol. 45 : Iss. 2 , Article 5.
Available at: <https://uknowledge.uky.edu/klj/vol45/iss2/5>

This Article is brought to you for free and open access by the Law Journals at UKnowledge. It has been accepted for inclusion in Kentucky Law Journal by an authorized editor of UKnowledge. For more information, please contact UKnowledge@lsv.uky.edu.

Responsibility: A Psychiatrist's Point of View

By DR. M. A. SKLANSKY*

THE CONCEPT of responsibility is used in several ways:

- 1) Trustworthiness, e.g., "He is a responsible lawyer and family man."
- 2) Blameworthiness (culpability or deserving of punishment) e.g., "He is responsible for the accident."
- 3) Causality, e.g., "His psychosis was responsible for his bizarre behavior." In our discussions of the concept of responsibility, we frequently use it in several ways, often simultaneously, and much of the confusion on the subject arises from this multiple use.¹

I am to present the psychiatrist's viewpoint on the concept of responsibility. But how the psychiatrist views this concept depends very much on the frame of reference in which he uses it, and this frame of reference depends very much on what role the psychiatrist assumes at the time of his viewing. The psychiatrist is many persons in one. His several roles, unless he is aware of them, may interfere with his professional function. The psychiatrist, like everyone else, is a unique individual with a personal history and a personal destiny. As a unique individual, he reacts to this question of responsibility in ways which may be characteristic of his individual personality. Thus, when he is moralistic or vindictive, he may look upon responsibility as culpability, as deserving of punishment. Then he, like the law and the rest of the community, is reacting to the concept from the traditional point of view of seeking to place the blame for an act. If the psychiatrist is overly empathic with the individual under con-

* Psychiatrist & Psychoanalyst; Clinical Assistant Professor of Psychiatry, University of Illinois, School of Medicine, Chicago, Ill.

¹ Szasz, Thomas A., "Psychiatry and the Law", Archives of Neurology and Psychiatry, May, 1956.

sideration, he may react with a desire to avoid punishment and then looks upon responsibility as culpability which the individual must be absolved from. If the individual under consideration is a nine-year-old boy who steals a spoon, the psychiatrist, like others, reacts differently to the question of the boy's responsibility than if the criminal is a grown man who butchers a nine-year-old boy. As a member of the community, the psychiatrist may be concerned for the welfare of the whole community and reacts then in terms of how the community may be protected or benefited. As a member of the same community, he is under pressure from his fellows and their attitudes, and he will then react to the concept of responsibility in terms of this community pressure.² For example, the psychiatrist, whose expert testimony might save a grown murderer of a child, will sometimes hardly escape hanging himself if the community is up in arms. As a physician, the psychiatrist may be interested in the health of the individual with whom he is concerned and then he looks upon responsibility as a function which has been interfered with by some process which may or may not be benefited by therapy. Finally, as a scientist, the psychiatrist may study this concept of responsibility as it is used by his fellow human beings and as he sees it manifested as a form of human behavior and as human experience. In each instance, he may be interested in studying the meaning, function and development of the concept of responsibility.

Now let me speak from the point of view that the psychiatrist is usually called upon to speak—that of the scientist and the physician. When the scientist examines what the community and the law expects, he finds that they are interested in responsibility as culpability or blameworthiness. They are not interested in causality per se nor even rehabilitation of the offender. It is their interest and their business to punish the individual who is to blame for his act and not to punish him if he is not to blame. This is not in and of itself the scientist's business. But he can try to determine what the community and the law think is blameworthiness and he soon finds that all of the issues are reduced to whether the individual, of his own free will, chose to act as he did. Can the psychiatrist answer this question?

² Zilboorg, Gregory, *Psychology of the Criminal Act and Punishment*, Harcourt, Brace, and Co., 1954.

As the scientist, the psychiatrist is called upon to explain human behavior. The psychiatrist is supposed to know most about individual human behavior. He is expected to understand totality of the individual as a psychosocial being, the effects of the body and of psychic functions and social influence on the individual. The psychiatrist observes that normal individuals have the capacity to make decisions, to choose, and to will to act. These functions are functions of the conscious portion of the ego. Moreover, the individual subjectively experiences them as a process of evaluating, choosing and willing to act. But the integrity of these functions depends on the integrity of numerous related functions. Indeed, volition and cognition cannot be isolated and separated from all of the ego integrated functions. An act finally depends on the ego's capacity to integrate internal instinctual pressures, personal values, cultural requirements and the perceptions of reality. Individual behavior at any moment is the outcome of the nature of the individual's constitution, the influence of numerous factors in his life history, the result of various pressures upon him, both internal and external, past and present. The psychiatrist observes that variations and vicissitudes in each of these inter-related psychic phenomena will determine the ultimate capacity of the individual to choose, decide, and control or act. Freedom of the will is an undeniable, subjective experience of the normal mind. The individual's subjective experience of responsibility—that is, his feeling blameworthiness—includes this experience of freedom of the will, the experience of being able to choose between actions and to decide in favor of one or another. Responsibility as a subjective experience includes also a conscious awareness and cognition of the reality in which one exists. And finally, the subjective experience of responsibility includes the sense of right and wrong—a reaction of the ego to conscience.

So, when the psychiatrist examines this concept of responsibility as culpability, he sees that all of the institutions of mental function are involved—the strength of the impulses, the character of the conscience, the integrative capacities of the ego. Defect in one or another of these psychic institutions may then result in "pathology of responsibility." Difficulty arises for the psychiatrist in those cases where it is not easy to reveal these defects to the satisfaction of judge and jury. There are no precise measurements, no final

tests that can be presented, no simple statements that can be made in each and every case. Mental disorder or disease is not always sharply differentiated from so-called normal minds. Psychoanalytic experience leads to the observation that among those individuals, who are not held culpable, there are defects in function, not unlike those of individuals who are held culpable from the point of view of the community and the law. Defects of conscience or super-ego vary from the almost acceptable beating of the income tax or bribing a policeman, to the guiltless deprivation of the livelihood and life of others. The yielding to impulse we see universally, at least in fantasy. Sometimes these impulses exist with great feeling. Frequently, feeling is separated from them. Sometimes the impulses are actually acted upon and the individual may never be discovered nor held responsible even if discovered, depending upon numerous considerations, often on the social class from which he comes. Failures of the ego we see varying from the common losing of one's temper in anger or yielding to the intensity of a sexual passion, to various forms of stealing and destroying. In some instances we are tolerant and understanding of such failures, for example, in children up to the age of fifteen or so, in wealthy ladies who suffer from kleptomania or in the promiscuity that takes place socially or in adolescent orgies. Of others, we are not so tolerant, depending on the temper of the social atmosphere and on the degree of sympathy with the person who commits the act.

Now let me treat the concept of responsibility in the sense of "causality". What is responsible for the defects in "responsibility?" What is responsible for the criminal act? The psychiatrist is not yet in a position always to explain why there are failures in ego function. But he can make approximations.³ A careful study of the individual as a totality, as far as we are able, of his functioning past and present, the forces, bodily, psychic and social that act on him, help the psychiatrist make an evaluation of the capacity of the individual to evaluate, choose, will, control and act.⁴ And more important, from the point of view of the community, he may suggest what can be done, if anything, to alter that behavior beneficially. Of course, when the psychiatrist discovers organic disease

³ Group for the Advancement of Psychiatry Report No. 26, "Criminal Responsibility and Psychiatric Expert Testimony", May, 1954.

⁴ Guttmacher, Manfred, "The Quest for a Test of Criminal Responsibility", *American Journal of Psychiatry*, Dec., 1954.

his task is simpler. Anatomical localization of the ego functions which have to do with the control of impulse or of the super-ego, from which such control is dictated, have certainly not been ascertained. That the frontal lobes play a highly significant role in the maintenance of these functions is suggested by the effects of injury, disease and surgery in these lobes. In the grosser pathologies of the psychoses, ego breakdown is more manifest, but even in these conditions, the psychiatrist cannot always show that a particular act is a product of the disease itself nor is it always clear that in every psychosis these functions are interfered with. On the other hand, the psychiatrist's task is not made easier when he indicates that every act is, after all, part of the totality of individual function.

Experience indicates that the ego's capacity to integrate, make decisions and control may be increased through psychiatric treatment. In working with delinquent adolescents and acting-out neurotics, we see that a shift can take place in the direction of impulse, and we know that self control and even feelings of guilt, which help to control, can be developed. We know that identification with "ideal figures" may hold back impulses or discharge them in socially acceptable forms. But this is an over-simplified and minimal statement. As the community alters its attitude toward those in whom responsibility has failed, when the desire for punishment gives way to an interest in rehabilitation, as facilities increase for custodial care and study of these individuals, opportunities for the accumulation of scientific knowledge about them will increase and then more meaningful statements and therapeutic procedures may be come upon.

The history of the community's attitude toward the irresponsible indicates that this may eventually come to pass, though indeed progress is slow. The effect of capital punishment as a deterrent is being disavowed,⁵ and individuals who commit capital offenses may be saved. In some areas, the McNaghten Rule is giving place to the New Hampshire Law and the Durham Rule.⁶ Here, individuals will no longer be declared legally sane or insane simply on the question of knowledge of good and evil, right and

⁵ Cook, Fred J., "Capital Punishment—Does It Prevent Crime?" *The Nation*, March 10, 1956.

⁶ Sobeloff, Judge Simon E. "McNaghten to Durham and Beyond", *Psychiatric Quarterly*, July, 1955.

wrong, but all information that can be obtained, which will elucidate why responsibility has failed, will have an opportunity to be evaluated. Although we still seek to punish the blame-worthy, changes take place even here. Psychotics, sexual psychopaths, children, adolescents are more often recommended for treatment, even now, rather than for punishment.

The psychiatrist, like others, is concerned with the community welfare and he does not yet know what can best be done to benefit that welfare in the handling of those who commit criminal acts. But he knows that difficult though the task may be, the goal lies in the direction of studying the cause of irresponsibility to determine what may be done to avoid the criminal act. He is not convinced that punishment is always the only deterrent. That it is effective in some cases is evident, but what makes it so? How and when can it best be applied? Punishment is today used more out of vindictive emotionality rather than as a procedure to alter behavior. As yet, we lack facilities as well as knowledge for the adequate solution of this extremely difficult problem, but this is no argument for the continuation of archaic attitudes and treatment. Rather, it is an indication of the direction in which we must go. Courts may become agencies for the protection and benefit of the community by serving in the task of diagnosis and disposition of those in whom responsibility has failed. In this way we fulfill our responsibility to each other as fellow human beings in making life together more livable.