

The End of (Discussing) Free Will

By Owen D. Jones, March 18, 2012

The problem with free will is that we keep dwelling on it. Really, this has to stop. Free will is to human behavior what a perfect vacuum is to terrestrial physics—a largely abstract endpoint from which to begin thinking, before immediately moving on to consider and confront the practical frictions of daily existence.

I do get it. People don't *like* to be caused. It conflicts with their preference to be fully self-actualized. So it is understandable that, at base, free-will discussions tend to center on whether people have the ability to make choices uncaused by anything other than themselves. But there's a clear answer: They don't. Will is as free as lunch. (If you doubt, just try willing yourself out of love, lust, anger, or jealousy.)

All animals are choice machines for two simple reasons. First, no organism can behave in all physically possible ways simultaneously. Second, alternative courses are not all equal. At any given moment, there are far more ways to behave disastrously than successfully (just as there are more ways to break a machine than to fix it). So persistence of existence consistently depends on one's ability to choose nondisastrous courses of action.

Yet (indeed, fortunately) that choosing is channeled. Choices are initially constrained by the obvious—the time one has to decide, and the volume of brain tissue one can deploy to the task. Choices are also constrained by things we have long suspected but which science now increasingly clarifies.

For example, human brains are not general-purpose processors, idly awaiting culture's activating infusion of consciousness. Evolutionary processes pre-equip brains in all species with some information-processing predispositions. Generally speaking, these increase the probabilities that some combinations of environmental circumstances—immediate physical and social factors, contexts, and the like—will yield one subset of possible (and generally nondisastrous) behaviors rather than others.

Also, we now know that brains, though remarkable and often malleable, are functionally specialized. That is, different brain regions have evolved to do different things—even though they generally do more than one thing. As a consequence, impairments to specific areas of the brain—through injury or disease, for example—can impede normal human decision-making. And those impediments can, in turn, relax inhibitions, increase impulsive and addictive behaviors, alter the ability to make moral judgments, or otherwise leave a person situated dissimilarly from the rest of the population.

Which brings us to law. How will insights from the brain sciences affect the ways we assess a person's responsibility for bad behavior? Answer: only somewhat, but sometimes significantly. Many people assume that legal responsibility requires free will, such that an absence of free will necessarily implies an absence of responsibility. Not true, as many scholars have amply demonstrated. Full, complete, utterly unconstrained freedom to choose among available actions might be nice to have, but it is not in fact necessary for a fair and functioning legal system.

This is not to say that degrees of freedom are irrelevant to law. Science hasn't killed free will. But it has clarified various factors—social, economic, cultural, and biological in nature—that constrain it.

The existence of constraints very rarely excuses behavior, as when a person in an epileptic fit hits someone. But evidence of brain-based constraints—which can vary from small to large—can be, and indeed have been, relevant in determining the severity of punishment. For example, some jurors in a recent Florida case reported that evidence of abnormal brain functioning warranted a murderer spending his life in prison, instead of being executed.

All behaviors have causes, and all choices are constrained. We need to accept this and adapt. Brain sciences are revealing complex and interconnected pathways by which the information-processing activities of multiple brain regions coalesce to influence human decision making. But this poses an advantage—neither a threat nor a revolutionary transition—to the legal system. In the near term, these complexities are more likely to inform than to utterly transform law's justice-driven efforts to treat people fairly and effectively.

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